

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

**DEPARTMENT:** City Development Department

**AGENDA DATE**      **October 28, 2014**      **Introduction**  
                                 **November 4, 2014**      **Regular Agenda**

**CONTACT PERSON NAME AND PHONE NUMBER:** Shamori Whitt, (915) 212-1586, whittSR@elpasotexas.gov

**DISTRICT(S) AFFECTED:** 3

**SUBJECT:**

An Ordinance repealing Ordinance No. 017658 dated October 18, 2011 which granted a Special Privilege License to J.D. Abrams, LP for the construction, installation, maintenance, and repair of a 115 linear foot subsurface HMAC TY C Temporary Water Line within portions of City right-of-way beneath George Orr Road between Ben Swain Drive and Highway Loop 375 (Cesar Chavez Highway) for a term of five years with one renewable five year term, thereby terminating the Special Privilege License.

**BACKGROUND / DISCUSSION:**

Proper procedure requires this Repealing Ordinance in order to terminate the Special Privilege License (Case: NESV11-00036) granted by the City Council by Ordinance No. 017658 to J.D. Abrams, LP (Grantee), which was limited to the purpose of allowing the installation, maintenance and repair of a temporary water line within the Licensed Area for the purpose of the Loop 375 reconstruction project.

On February 10, 2014, the Grantee notified the City Manager's Office in writing that they completed the reconstruction of Loop 375 (Cesar Chavez Highway) from Zaragosa Road to US54. As per the terms of Ordinance No. 017658, the Grantee has removed the temporary water line from the Licensed Area and restored the area per City specifications.

**PRIOR COUNCIL ACTION:**

October 18, 2011- City Council Approval of Ordinance 017658

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

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

**DEPARTMENT HEAD:**

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**Mathew S. McElroy, Director**  
**City Development Department**

*Information copy to appropriate Deputy City Manager*

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REPEALING ORDINANCE NO. 017658 DATED OCTOBER 18, 2011 WHICH GRANTED A SPECIAL PRIVILEGE LICENSE TO J.D. ABRAMS, LP FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE, AND REPAIR OF A 115 LINEAR FOOT SUBSURFACE HMAC TY C TEMPORARY WATER LINE WITHIN PORTIONS OF CITY RIGHT-OF-WAY BENEATH GEORGE ORR ROAD BETWEEN BEN SWAIN DRIVE AND HIGHWAY LOOP 375 (CESAR CHAVEZ HIGHWAY) FOR A TERM OF FIVE YEARS WITH ONE RENEWABLE FIVE YEAR TERM, THEREBY TERMINATING THE SPECIAL PRIVILEGE LICENSE.**

**WHEREAS**, on October 18, 2011, the City Council for the City of El Paso (the “City”) adopted Ordinance No. 017658 granting J.D. Abrams, LP. (“Grantee”) a special privilege license for the installation, operation, repair and maintenance of a temporary water line in portions of City rights-of-way beneath George Orr Road between Ben Swain Drive and Highway LP375, City of El Paso, El Paso County, Texas, as shown on Exhibit “A”; and

**WHEREAS**, Grantee has requested termination of this license since it is no longer needed because it has completed the project which necessitated the temporary installation, operation, repair and maintenance of the water line; and

**WHEREAS**, the Grantee has met the requirements of the lease and removed the water line from the licensed area and restored the area per City Specifications; and

**WHEREAS**, Grantee and the City desire to terminate the Special Privilege License granted by Ordinance No. 017658, dated October 18, 2011.

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

That Ordinance No. 017658, dated October 18, 2011 granting a Special Privilege License to J.D. Abrams, LP., to use portions of City rights-of-way beneath George Orr Road between Ben Swain Drive and Highway LP375, City of El Paso, El Paso County, Texas, be repealed.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2014.

**(Signatures begin on following page)**

**ORDINANCE NO. \_\_\_\_\_**

**WITNESS THE FOLLOWING SIGNATURES:**

**THE CITY OF EL PASO**

\_\_\_\_\_  
Oscar Leeser  
Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Karla M. Nieman  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Mathew S. McElroy, Director  
City Development Department

**ORDINANCE NO.** \_\_\_\_\_



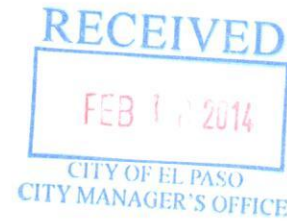
J.D. ABRAMS, LP  
 1171 LARRY MAHAN DR  
 EL PASO, TX 79925  
 (915) 593-7393  
 FAX (915) 591-2780

To: Irene Ramirez

F41  
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February 10, 2014

Ms. Joyce A. Wilson  
 City Manager  
 City of El Paso Texas  
 300 N. Campbell  
 El Paso TX, 79901



RE: ***Cancellation of Special Privilege Permit & Licenses***  
***Approx. 3ft x 110ft along curb line of George Orr Dr. adjacent to 448 Ben Swain Dr.***  
 Control No. 2552-04-029  
 Project No. MG 2011 (752)  
 Highway LP375 Cesar Chavez Border Highway  
 JDA Job No. 1102

Dear Ms. Wilson:

Please find this letter as our written notice to terminate the special privilege permit (permit# 11-1036-061). JD Abrams, LP has completed the reconstruction of LP375 Cesar Chavez (aka Border Highway) from Zaragosa Rd to US54. We have removed the water line from the licensed area as well as restored the area per the city specifications.

Should you have concerns or require additional information, please do not hesitate to contact me at (915) 727-5176.

Sincerely,  
 J.D. Abrams, L.P.

Bud Geng  
 Project Engineer

cc: City of El Paso Department of Transportation  
 City of El Paso Financial Services – Capital Assets Division  
 El Paso Water Utilities/Public Service Board

**AN ORDINANCE GRANTING A SPECIAL PRIVILEGE LICENSE TO J.D. ABRAMS, LP FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE, AND REPAIR OF A 115 LINEAR FOOT SUBSURFACE HMACH TY C TEMPORARY WATER LINE WITHIN PORTIONS OF CITY RIGHT-OF-WAY BENEATH GEORGE ORR ROAD BETWEEN BEN SWAIN DRIVE AND HIGHWAY LP375 (CESAR CHAVEZ HIGHWAY) FOR A TERM OF FIVE YEARS WITH ONE RENEWABLE FIVE YEAR TERM.**

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

**SECTION 1. DESCRIPTION**

The City of El Paso for itself and on behalf of the El Paso Water Utilities/Public Service Board (EPWU/PSB) (hereinafter called "City") hereby grants a Special Privilege to install, operate, repair, and maintain the structure beneath, within, and along the portions of City right-of-way (hereinafter called "License") to J.D. Abrams, LP (hereinafter referred to as the "Grantee") for the construction, installation, future maintenance, and repair of a 115 linear foot subsurface HMACH TY C temporary water line within portions of City rights-of-way beneath George Orr Road between Ben Swain Drive and Highway LP375 (Cesar Chavez Highway), as shown in Exhibit "A," which is made a part hereof for all purposes (hereinafter referred to as "Water Line"). Use of the City rights-of-way shall be limited to the purpose of allowing the installation, maintenance and repair of the temporary water line.

**SECTION 2. LICENSE AREA**

The subsurface rights granted herein that extend beneath portions of right-of-way on George Orr Road between Ben Swain Drive and Highway LP375 (Cesar Chavez Highway) to install the Water Line are more particularly shown in Exhibit "B," which is made a part hereof for all purposes (hereinafter referred to as "License Area"). The Water Line is to be installed maintaining a five-foot separation from existing utilities. For the areas necessitating pavement cuts, the repairs and pavement cuts shall comply with the provisions of Chapter 12.30 (Temporary Traffic Control), Chapter 13.04 (Street and Sidewalk Construction and Maintenance), and Chapter 13.08 (Excavations) of the El Paso City Code.

**SECTION 3. PURPOSE**

The only City right-of-way Grantee shall use pursuant to this License shall be License Area shown for the construction of the Water Line described in Exhibit A attached hereto. Any use of the License Area other than in connection with the construction, use, maintenance, reconstruction, or modification of the Water Line is not authorized by this License. Nothing herein shall grant any real property interest to the Grantee nor give rise to any vested right in the Grantee, his assigns or

successors in interest, none of whom shall have a cause of action for damages upon revocation or termination of this License in accordance with the terms herein.

This License shall not permit or be construed to permit any other private use of the City right-of-way that impairs its function as a City right-of-way. Except as provided herein, Grantee shall not construct any additional improvements, or make any additions or alterations on, above, or below the City right-of-way, without prior written consent of the El Paso City Council.

#### **SECTION 4. REGULATION OF CONSTRUCTION**

The work done by Grantee in placing, constructing, replacing, repairing, reconstructing, or maintaining the Structure shall be subject to and governed by all laws, rules and regulation of the City and State of Texas, Federal Communications Commission, and the U.S. Government that are applicable to the construction of the Water Line. Work done in connection with the construction, repair and maintenance of such facilities is subject to the continuing police power of the City.

In the event that Grantee desires to reconstruct, repair, maintain, or replace the Water Line built hereunder, Grantee shall obtain all applicable permits required by the City. Where proposed, any excavation or trenching and other construction in the City right-of-way shall be so carried out as to interfere as little as practical with the surface use of the City right-of-way in accordance with any lawful and reasonable direction given by or under the authority of the governing body of the City under the police and regulatory powers necessary to provide for public convenience. After installation of the Water Line, Grantee shall restore the City right-of-way to substantially the same condition as before any such boring, excavation, or trenching and to the reasonable satisfaction of the City, in accordance with applicable City specifications.

Grantee covenants and agrees that Grantee shall, at its own expense, repair all water lines, storm and sanitary sewer lines, service lines and water meters owned by the City that Grantee, its employees, contractors, agents or assigns, damage so that such repair of the water lines, storm and sanitary sewer lines and water meters shall comply with the approval of the City.

The City shall have the power at any time to order and require Grantee to remove and abate any portion of the Water Line that is dangerous to life or property. Should Grantee, after notice, fail or refuse to comply within a reasonable time, the City shall have the power to remove or abate same, at the expense of Grantee. In the event City removes or abates the Water Line as provided herein, Grantee shall not be compensated for the loss of the Water Line, or revenues associated

with the Structure, nor shall the City be liable to the Grantee for any direct, indirect or consequential damages due to the removal or abatement of the Water Line.

**SECTION 5. TERM**

This Special Privilege shall be for a term of five (5) years from the effective date hereof, unless terminated earlier as provided herein. At the end of this term, the City shall have the unilateral option of renewing this Special Privilege for one (1) additional five (5) year term upon the request of the Grantee. If Grantee wishes the City to renew this License, Grantee shall submit a request in writing to the City no later than three (3) months prior to the expiration date of this License. Should Grantee fail to submit such request for the renewal of this License to the City as herein required, the License shall expire upon the expiration date. Grantee understands, agrees, and accepts that the City may require the terms, conditions, and provisions of this License be modified as a condition for renewing the grant of the encroachment within the License Area as permitted by this License.

**SECTION 6. WORK DONE BY OTHERS**

Throughout the term of this License, the City expressly reserves the right to install, repair, or reconstruct the City right-of-way used or occupied by Grantee, any streets or alleys and all ancillary public uses, usual and customary in connection with streets and alleys, expressly including but not limited to, drainage facilities and structures.

The City reserves the right, subject to further conditions described in this paragraph, to lay and permit to be laid, utility lines including, but not limited to, storm and sanitary sewer, gas, water, and other pipelines, cables and conduits, and to do and permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the governing body of the City in, across, along, over or under the City right-of-way occupied by Grantee, and to change any curb or sidewalk or the street grade of any street. The City shall not be liable to Grantee for any damage resulting there from, nor shall the City be liable to Grantee for any damages arising out of the performance of any work by the City, its contractors or subcontractors, not willfully and unnecessarily occasioned; provided, however, nothing herein shall relieve any other persons or entities from liability for damage to the Water Line. If the City requires Grantee to, alter, change, adapt, or relocate the Water Line, due to imminent public safety concerns, because of changes in the grade of the City right-of-way or in the location or manner of constructing a water pipe, sewer pipe or other underground or aboveground pipes owned by the City, Grantee shall make the alterations or changes as soon as practicable when ordered in writing by the City without claim for reimbursement or damages against the City. If these

requirements impose a financial hardship upon Grantee, Grantee shall have the right to present alternative proposals for the City's consideration. If the City requires Grantee to remove, alter, change, adapt or relocate its Water Line or any portion thereof to enable any other entity or person, except the City, to use, or to use with greater convenience, the City right-of-way, Grantee shall not be required to make such changes until such other entity or person shall have undertaken with solvent bond, to reimburse Grantee for any loss and expense which will be caused by or arise out of such removal, alteration, change, adaptation or conformance of the Water Line; provided, however, the City shall not be responsible nor liable for such reimbursement.

#### **SECTION 7. RESERVATION OF SURFACE, SUBSURFACE, AND AIRSPACE RIGHTS**

The City reserves the right to use the surface or subsurface or airspace within the License Area for any public purposes allowed by law and deemed necessary by the City and to do or permit to be done any work in connection therewith which may be deemed necessary or proper by the City on, across, along, under or over said City right-of-way occupied by Grantee provided such use does not interfere with Grantee's use of the License Area. Whenever by reason of said work in connection with said purposes it shall be deemed necessary by the City to alter, change, adapt, conform or relocate portions of the Water Line, such alteration or change or relocation shall be made by Grantee when ordered in writing by the Traffic Engineer without any claim for reimbursement or damages against the City.

#### **SECTION 8. CONSIDERATION**

As consideration for this Special Privilege, Grantee shall pay to the City the sum of TWO HUNDRED TWENTY AND NO/100 DOLLARS (\$220.00) per year. The annual consideration is calculated pursuant to Section 15.08.120.F.1 of the El Paso City Code. The annual fee shall remain the same for a period of one year from the date of execution by City Council and shall be subject to change after each one year period the License remains in effect. The El Paso City Council retains the right to increase or decrease the annual fee specified in this License.

The City shall notify the Grantee of any proposed changes in fees as prescribed in Section 14 (Notice) of this License. This License is granted on the condition the grantee pays for all costs associated with the Water Line, as well as all costs for the restoration of the License Area upon the termination of the License.

The first annual consideration shall be due and owing prior to City Council approval of the License. The advance payment shall be in the form of a cashier's check or business check

payable to "The City of El Paso" and delivered to the Department of Transportation for remittance to the Financial Services Department. If the Special Privilege is disapproved by the City Council, a full refund of the payment shall be made by the Financial Services Department within fifteen (15) days of the denial action.

Subsequent annual considerations shall be due the first day of the month in which the License has been granted by the El Paso City Council and remitted to the Financial Services Department.

**ADVANCE PAYMENT OPTION:** Grantee may, at its option, pay forth to the City the sum of ONE THOUSAND EIGHT DOLLARS AND NO/100 CENTS (\$1,008.00) prior to City Council action of this License. Said \$1,008.00 reflects the net present value of the annual fees required by this License. In the event of cancellation of this License by the City, the Grantee shall not be entitled to a refund of the annual consideration paid to the City.

The advance payment shall be in the form of a cashier's check or business check payable to "The City of El Paso" and delivered to the Department of Transportation for remittance to the Financial Services Department. If the Special Privilege is disapproved by the City Council, a full refund of the payment shall be made by the Financial Services Department within fifteen (15) days of the denial action.

The fee payment shall be exclusive of and in addition to all general municipal taxes of whatever nature, including, but not limited to, the ad valorem taxes, and assessments for public improvements except as hereinafter provided as may be enacted during the term of this License or any renewal. The fee established in this section shall not be affected by any relocation of Grantee's Water Line required by the City pursuant to this License.

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 City Special Privileges and regulations.

## **SECTION 9. INSURANCE**

Prior to commencement of any future construction, repairs, or maintenance operations during the term of this License, Grantee shall provide the City with a certificate of insurance and shall maintain such insurance in effect during the term of this License. The City shall be named as an additional insured on all of the Grantee's insurance policies that are required by this License.

Failure to maintain insurance shall be a material breach of this license and a basis for termination of this License by the City.

Grantee shall obtain and provide a comprehensive general liability insurance policy with a minimum One Million and No/100 Dollars (\$1,000,000.00) limit, per occurrence, for personal injury, death, and property damage, with a One Million and No/100 Dollars (\$1,000,000.00) general aggregate limit, and, in addition, One Million and No/100 Dollars (\$1,000,000.00) products/completed operations (if needed). 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. Such policy or certificate shall provide that the insurance cannot be canceled without thirty (30) days prior written notice to the Financial Services Department, or ten (10) days prior written notice to the Financial Services Department for cancellation based on non-payment of insurance premiums. Notification to the City is not required for modifications to the policy coverage amount provided the minimum liability coverage amounts listed in the preceding paragraph are maintained for the duration of the term of this License. Grantee shall file a copy of the policy or certificate of insurance with Financial Services and the Department of Transportation. If the policy is not kept in full force and effect throughout the term of this License, the License shall automatically become void.

#### **SECTION 10. INDEMNITY**

**As a condition of this License, Grantee shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees from and against any and all costs, claims, liens, damages, losses, expenses (including but not limited to attorneys' fees and costs), fees, fines, penalties, proceedings, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death or property damage, arising out of, resulting from or related to the GRANTEE'S activities under this License, including any act or omission by the GRANTEE, its agents, employees or subcontractors, all, without, however, waiving governmental immunity available to the City, hereafter, the "damages". This indemnification shall apply even where such damages described above involve the negligence or allegations of negligence on the part of the City, its officers, agents or employees.**

The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any person or entity. 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 the GRANTEE every demand, notice, summons, or other process received by the City in any claim or legal proceeding contemplated herein. GRANTEE shall investigate or cause the investigation of accidents or occurrences involving such damages, negotiate or cause to be negotiated the claim as the GRANTEE may deem expedient, and defend or cause to be defended on behalf of the City all suites for damages, even if groundless, false or fraudulent brought because of such damages. GRANTEE shall pay all judgments finally establishing liability of the City in actions defended by Contractor 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 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. In addition, the GRANTEE shall promptly advise the City in writing of any claim or demand against the City or the GRANTEE known to the GRANTEE related to or arising out of the GRANTEE'S activities under this License. **The City will not be responsible for any loss of or damage to the GRANTEE'S property from any cause.**

#### **SECTION 11. RIGHTS IN THE EVENT OF ABANDONMENT**

As an express condition of this License, and not as a mere covenant, in the event Grantee abandons the Water Line or a portion thereof or ceases to use the Water Line for the purposes enumerated herein for any period of six (6) months or longer, other than the time elapsing between the effective date of this license and the completion of construction of the Water Line, this License shall automatically terminate, free and clear of any right, title, or interest in Grantee without the necessity of any notice to Grantee or any re-entry by the City.

#### **SECTION 12. CANCELLATION**

Grantee shall have the option to terminate this License at any time upon giving the City written notice thirty (30) days in advance of such termination. In addition, the City shall have the option to cancel and terminate this License for failure of Grantee to comply with any material provision or requirement contained in this agreement after thirty (30) days written notice to Grantee. However, if said breach or failure to comply cannot be reasonably cured within thirty (30) days, if Grantee shall proceed promptly to cure the same with due diligence, the time for curing such failure to comply shall be extended for such period of time as may be deemed reasonably necessary by the City to complete such curing unless such breach involves public safety.

Upon termination of this License, prior to the expiration of the original term for any reason, Grantee shall remove its Water Line located in the License Area at no cost to the City. When said Water Line is removed from the License Area, Grantee shall restore all pavement or base, damaged, or removed during the term of this License, if any, at Grantee's own cost and expense, as determined by the City Engineer and in accordance with City specifications as shown in Exhibit "A". Any such restoration shall be subject to the reasonable approval of the City. If the Grantee fails to restore the pavement as required by the City, the City may at its option restore the pavement and charge such costs to Grantee who shall be responsible for payment of such repair and restoration costs.

**SECTION 13. RECORDS**

The El Paso City Council and the Traffic Engineer or designee shall be kept fully informed by Grantee as to matters pertaining in any way to Grantee's exercise of its rights under this License, including the construction, replacement, reconstruction, maintenance, and repair of the Water Line within the City right-of-way. Obtaining all applicable City permits shall be deemed sufficient to keep such parties informed. Grantee shall keep complete and accurate maps, construction drawings, and specifications describing the location of the Structure within the City right-of-way. The City shall have the right, at reasonable times to inspect such maps, construction drawings, and specifications.

**SECTION 14. NOTICE**

Any notice or communication required in the administration of this License shall be sent in writing by prepaid certified mail, return receipt requested, to the following addresses:

- CITY: City of El Paso  
Attn: City Manager  
#2 Civic Center Plaza 10<sup>th</sup> Floor  
El Paso, Texas 79901
  
- with copy to: City of El Paso  
ATTN: Department of Transportation  
7968 San Paulo Drive  
El Paso, Texas 79915
  
- with copy to: City of El Paso  
ATTN: Financial Services – Capital Assets Division  
#2 Civic Center Plaza 7<sup>th</sup> Floor  
El Paso, Texas 79901
  
- with copy to: El Paso Water Utilities/Public Service Board  
ATTN: John E. Balliew, P.E.  
P.O. BOX 511  
El Paso, Texas 79961

GRANTEE: J.D. Abrams, LP.  
ATTN: Alfonso Fernandez  
1171 Larry Mahan Drive  
El Paso, Texas 79925

or to such other addresses as Grantee may designate from time to time by written notice as required in this paragraph.

**SECTION 15. ASSIGNMENT**

The rights granted by this License inure to the benefit of the Grantee, and any parent, subsidiary, or successor entity now or hereafter existing. The rights shall not be assignable without the express advanced written consent of the El Paso City Manager; however, such consent will not be unreasonably withheld.

**SECTION 16. LEASING OR DEDICATION OF FACILITIES**

Grantee, without the advanced written consent of the El Paso City Manager or designee, shall not lease the License Area, to any non-grantee person or entity; however, such consent will not be unreasonably withheld.

**SECTION 17. ADMINISTRATION OF LICENSE**

The Traffic Engineer or designee is the principal City official responsible for the administration of this License. Grantee recognizes that questions regarding the interpretation or application of this License shall be referred to the Traffic Engineer.

**SECTION 18. NO PROPERTY RIGHTS**

Nothing herein shall grant any real property interest to the Grantee nor give rise to any vested right in the Grantee, his assigns or successors in interest, none of who shall have a cause of action for damages upon revocation or termination of this License in accordance with the terms herein.

**SECTION 19. LIENS AND ENCUMBRANCES**

Grantee shall defend and indemnify the City against any liability and loss of any type arising from any lien or encumbrance on the License Area that arises or is alleged to have arisen from Grantee's use of the License Area.

**SECTION 20. RIGHT OF ENTRY AND INSPECTION**

The City's authorized representative shall have the right to enter upon the License Area at all reasonable times for the purpose of inspecting the same and determining compliance with the terms of this License.

**SECTION 21. LAWS AND ORDINANCES**

Grantee shall comply with all statutes, laws, codes and ordinances applicable to Grantee's construction, repair, renovation, alteration or use of the License Area.

**SECTION 22. ENTIRE AGREEMENT**

This document contains all of the agreements between the parties and may not be modified, except by an agreement in writing signed by both parties.

**SECTION 23. SEVERABILITY**

Every provision of this license is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality shall not affect the validity of the remainder of this license.

**SECTION 24. LAWS GOVERNING/VENUE**

The laws of the State of Texas shall govern the validity, performances, and enforcement of this license and if legal action is necessary to enforce it, exclusive venue shall be in El Paso County, Texas.

**SECTION 25. RESTRICTIONS AND RESERVATIONS**

This License is subject to all rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land. If, at any time during the initial term of this license, or any extension thereof, any such rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land, preclude, interrupt or interfere with Grantee's use of the License Area, Grantee shall have the right to terminate this License upon giving the City prior written notice of its intent to do so.

**SECTION 26. EFFECTIVE DATE**

The effective date of this License shall be the date last entered below. This License shall not take effect unless Grantee files its written acceptance with the City prior to the enactment of this License by the El Paso City Council.

PASSED AND APPROVED this 18<sup>th</sup> day of October, 2011.

**WITNESS THE FOLLOWING SIGNATURES AND SEALS**

CITY CLERK DEPT.

OCT -4 PM 5:44

THE CITY OF EL PASO

John F. Cook  
John F. Cook  
Mayor

ATTEST:

Richarda Duffy Mohnsen  
Richarda Duffy Mohnsen  
City Clerk

APPROVED AS TO FORM:

Elizabeth M. Ruhmann  
Elizabeth M. Ruhmann  
Assistant City Attorney

APPROVED AS TO CONTENT:

David W. Cole  
David W. Cole, Director  
Department of Transportation

ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this 5<sup>th</sup> day of October, 2011.

GRANTEE:  
J.D. Abrams, LP.

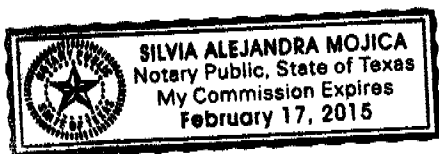


By: Alfonso Fernandez  
Title: Area Manager

ACKNOWLEDGMENT

THE STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO            )

This instrument is acknowledged before me on this 5<sup>th</sup> day of October, 2011, by Alfonso Fernandez on behalf of J.D. Abrams, LP. as Grantee.



Silvia Mojica  
Notary Public, State of Texas

Notary's Printed or Typed Name:

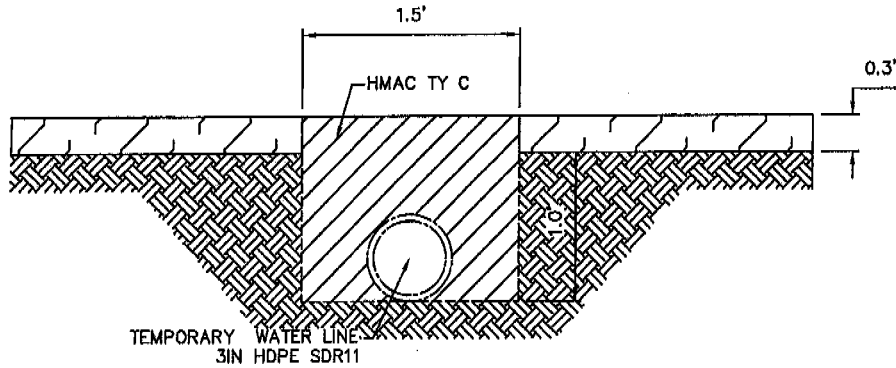
Silvia Mojica  
My Commission Expires:

2/17/15

CITY CLERK DEPT.  
2011 OCT -6 PM 1:47

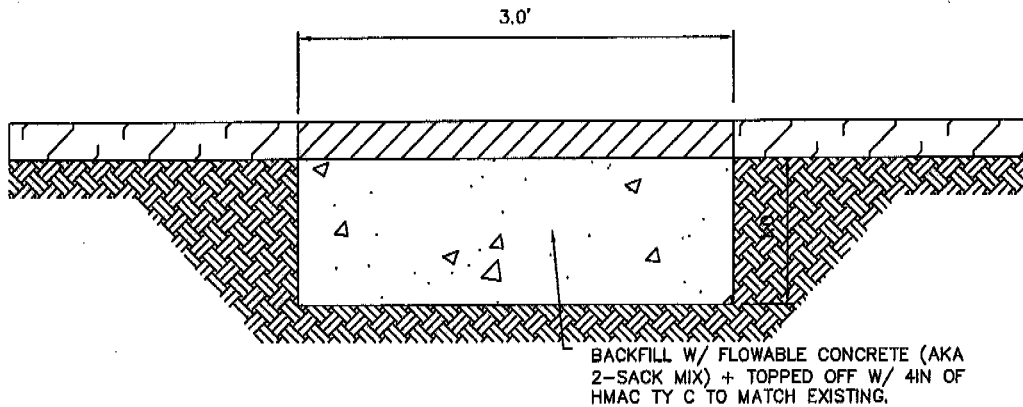
**NOTES:**

- 1.- CONTRACTOR WILL NOTIFY EXISTING UTILITES PRIOR TO EXCAVATION.
- 2.- CURB & GUTTER AND SIDEWALKS WILL BE RESTORED TO ORIGINAL CONDITIONS.
- 3.- ALL TRENCH LINES TO BE NEATLY SAWED.




**INTERIM CONDITION DETAIL**

SCALE: 1" = 1'

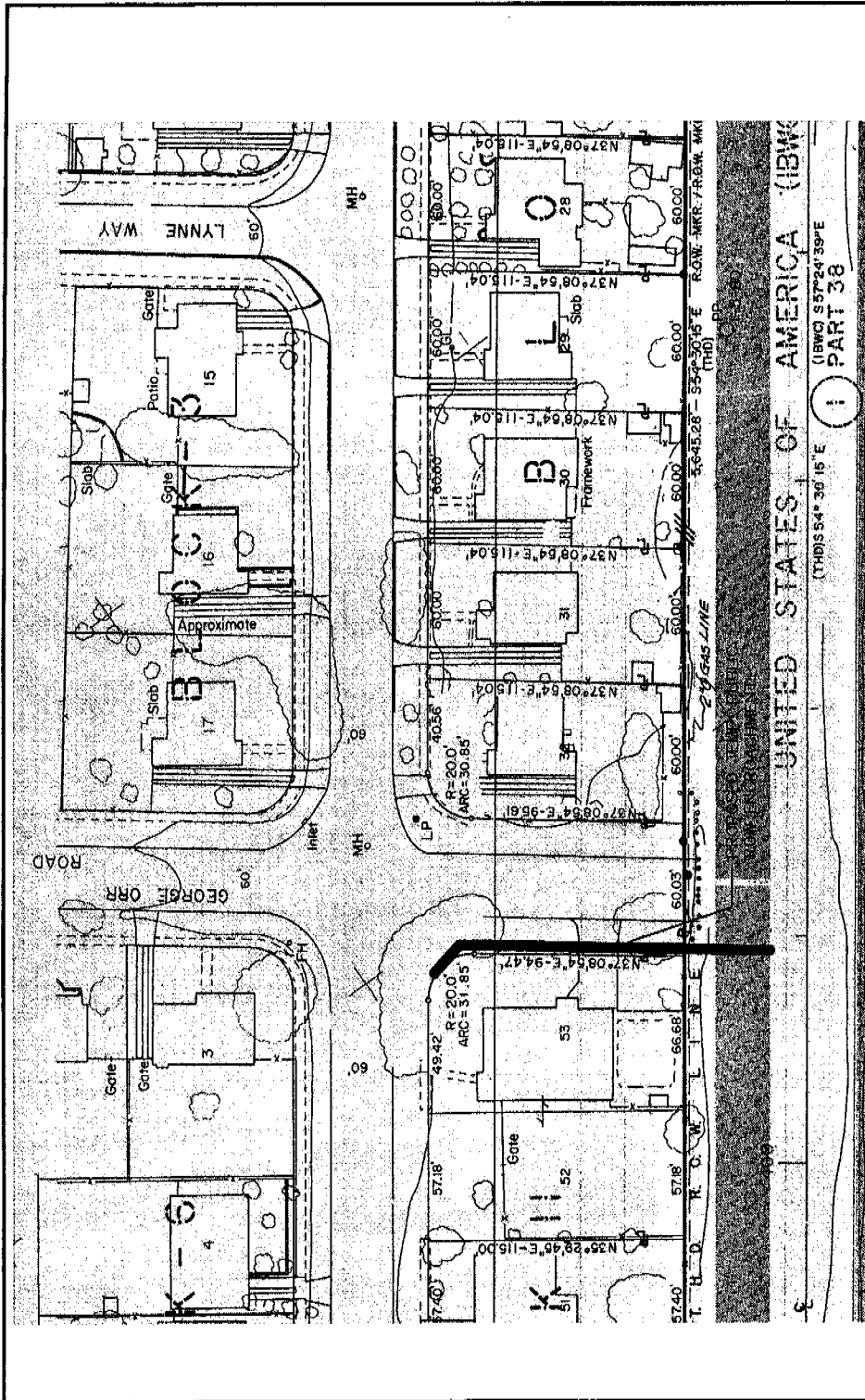


**FINAL CONDITION DETAIL**

SCALE: 1" = 1'

<p>SCALE</p>	<p>FOR APPROVAL:</p>	 <p><b>J.D. Abrams, L.P.</b></p> <p>1171 Larry Mahan Dr El Paso, TX, 79906          (915) 698-7383 - FAX: (915) 691-2780          EMAIL: jgallo@jdeb Abrams.com</p>
<p>HOR: <u>N/A</u> VER: <u>N/A</u>          FILE NAME: <u>TYP. DET .DWG</u>          W.O. _____          DATE: <u>SEP. 13, 2011</u>          DRAWN BY: <u>JG</u></p>	<p>_____</p>	

**EXHIBIT A**



UNITED STATES OF AMERICA (13WK)  
 (THIS IS 54° 30' 15" E (18W) 537° 24' 39" E  
 PART 38

SCALE FOR APPROVAL:

HOR: 1"=60' VER: N/A  
 FILE NAME: Location Map  
 W.O.  
 DATE: SEP. 19, 2011  
 DRAWN BY: JG

ADJACENT PROPERTY:  
 448 BEN SWAIN DR  
 11 MILLERS LAKESIDE 53



J.D. Abrams, L.P.  
 1171 Larry Mahan Dr. Ft. Worth, TX 76165  
 (817) 582-7385 FAX: (817) 561-2760  
 EMAIL: jgale@jdaframs.com  
 State of Texas Equal Opportunity  
 Check Title, Check Ownership

EXHIBIT B



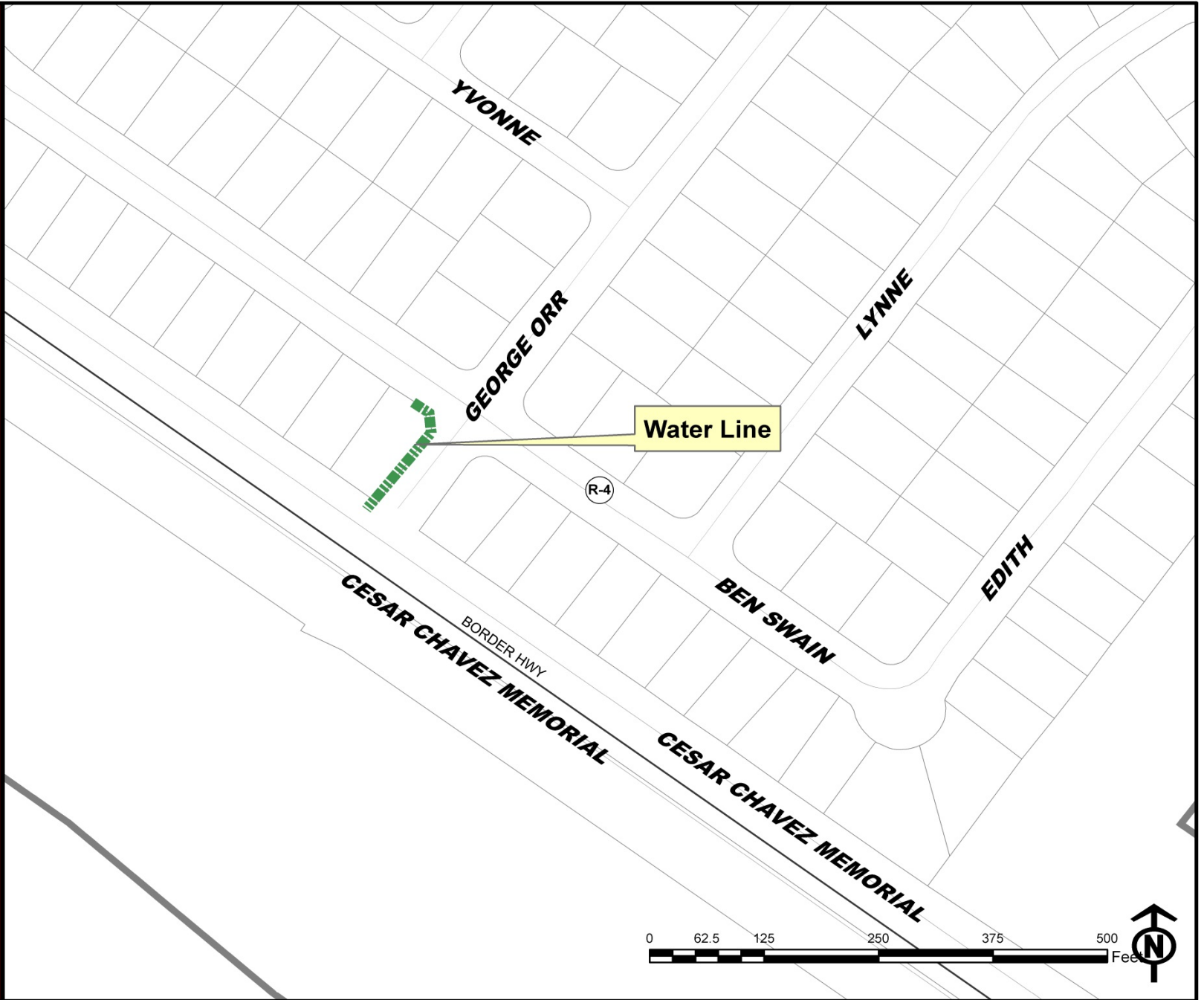
## **NESV11-00036: TERMINATION Special Privilege License, JD ABRAMS, LP**

- Grantee: JD Abrams, LP
- Location: Ben Swain Drive and Highway Loop 375
- Representative District: 3
- Enabling Ordinance: 017658 (October 18, 2011)
- Purpose: 115 linear foot temporary water line for Loop 375 reconstruction project
- On February 10, 2014, the Grantee notified the City Manager's Office in writing that they completed the reconstruction of Loop 375 (Cesar Chavez Highway) from Zaragosa Road to US54. Licensed Area has been restored per City specifications.



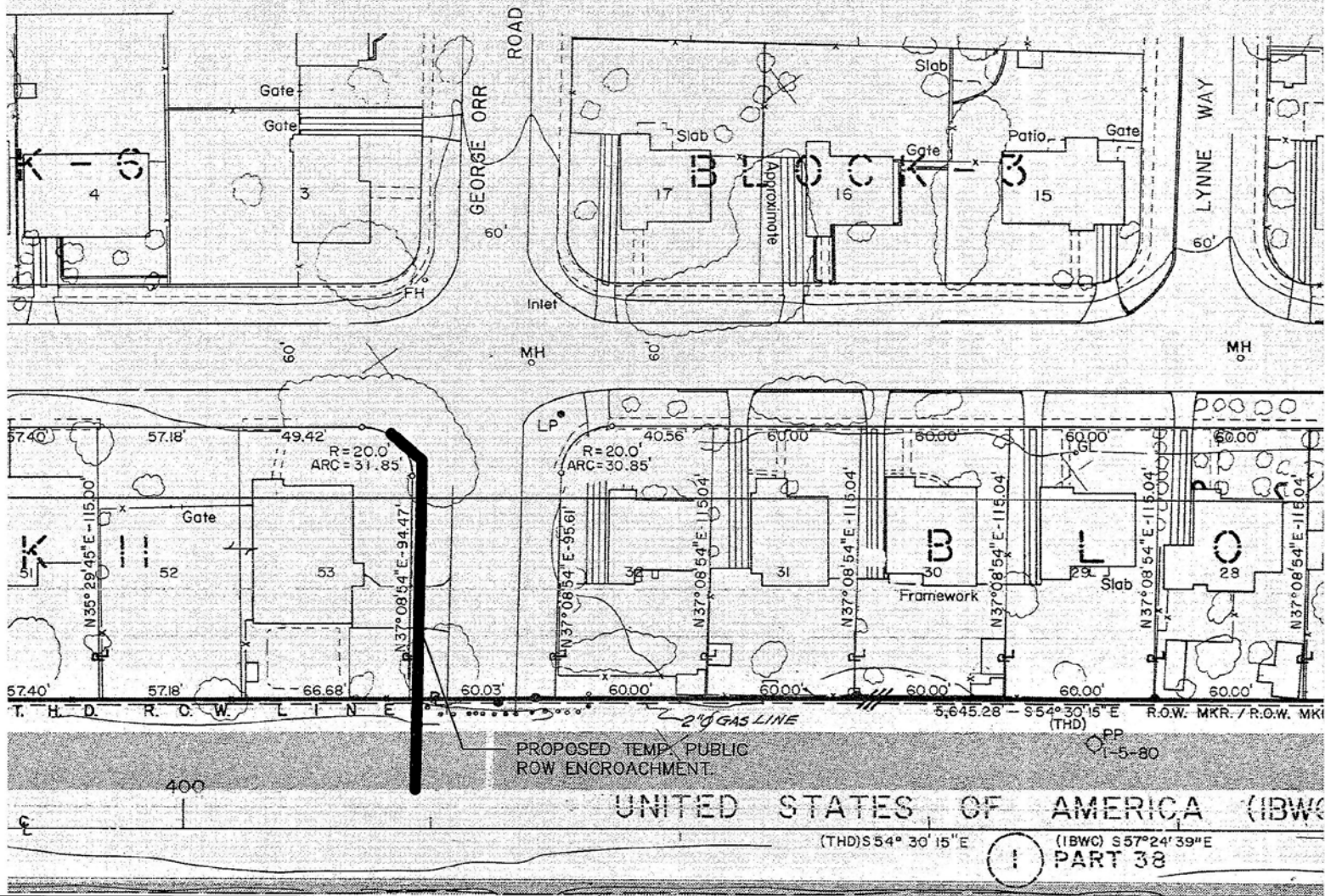
- **CITY COUNCIL ACTION NEEDED:** Approval of this Repealing Ordinance, in order to terminate the Special Privilege License granted by Ordinance No. 017658
- **CITY DEVELOPMENT RECOMMENDATION:**  
Approval
- **CPC VOTE:** n/a
  - Please note that Special Privilege Permits and Licenses are not reviewed by the CPC.
- **CITIZEN COMMENT:** none

**NESV11-00036**



**NESV11-00036**





UNITED STATES OF AMERICA (IBWC)  
 (THD) S54° 30' 15" E (IBWC) S57° 24' 39" E  
 PART 38

SCALE

FOR APPROVAL:

ADJACENT PROPERTY:  
 448 BEN SWAIN DR.  
 11 MILLERS LAKESIDE 53

HOR: 1"=60' VER: N/A  
 FILE NAME: Location Map  
 W.O. \_\_\_\_\_  
 DATE: SEP. 19, 2011  
 DRAWN BY: JG

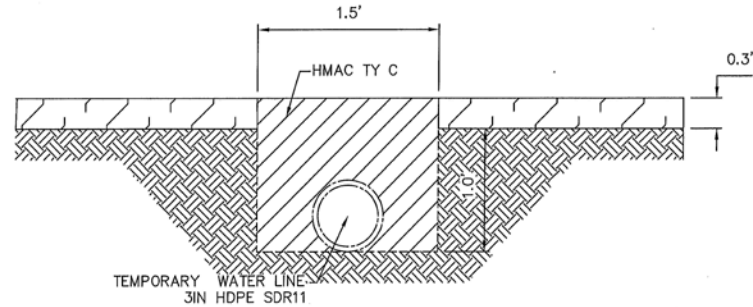


J.D. Abrams, L.P.

1171 Larry Mahan Dr El Paso, TX, 79925  
 (915) 593-7393 - FAX: (915) 591-2780  
 EMAIL: jgallo@jdabrams.com

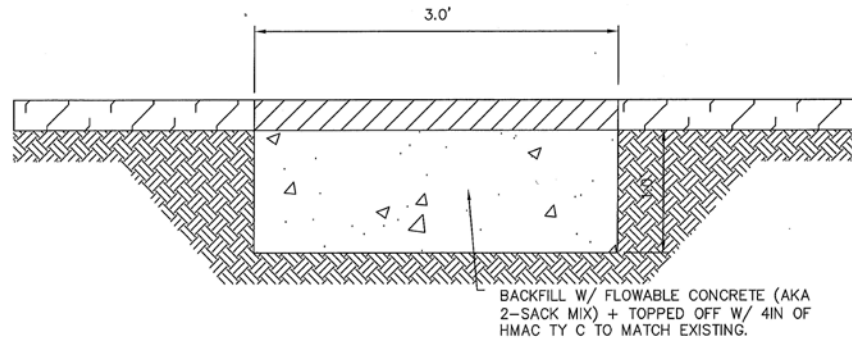
NOTES:

- 1.- CONTRACTOR WILL NOTIFY EXISTING UTILITES PRIOR TO EXCAVATION.
- 2.- CURB & GUTTER AND SIDEWALKS WILL BE RESTORED TO ORIGINAL CONDITIONS.
- 3.- ALL TRENCH LINES TO BE NEATLY SAWED.




INTERIM CONDITION DETAIL

SCALE: 1" = 1'



FINAL CONDITION DETAIL

SCALE: 1" = 1'

SCALE	FOR APPROVAL:	
HOR: <u>N/A</u> VER: <u>N/A</u> FILE NAME: <u>FH1009 Trench Dtls</u> W.O. _____ DATE: <u>Oct. 06, 2011</u> DRAWN BY: <u>JG</u>	 <small>5000 Business Center One Team, One Company</small>	<b>J.D. Abrams, L.P.</b> <small>1171 Larry Mahan Dr El Paso, TX, 79925                  (915) 593-7393 - FAX: (915) 591-2760                  EMAIL: jgallo@jdabrams.com</small>