

DEPARTMENT OF THE ARMY
EASEMENT FOR ELECTRIC POWER OR
COMMUNICATION FACILITY
LOCATED AT
FORT BLISS MILITARY RESERVATION
EL PASO COUNTY, TEXAS

THE SECRETARY OF THE ARMY under and by virtue of the authority vested in the Secretary by Title 10, United States Code, Section 2668, having found that the granting of this easement will not be against the public interest, hereby grants to **City of El Paso**, hereinafter referred to as the Grantee, an easement, **500 feet long and 500 feet wide**, for the construction, operation, and maintenance of a radio tower for distribution of Emergency Management Services communications signals and associated facilities for the transmission, reception and relay of the signals, hereinafter referred to as the Facilities over, across, in, and upon the lands of the United States as identified in **EXHIBITS A – Map, B – Survey, and C – Legal Description**, on Tract 2401-3, attached hereto and made a part hereof, hereinafter referred to as the Premises.

THIS EASEMENT is granted subject to the following conditions:

1. TERM

This easement is granted for a term of **twenty-five (25) years**, beginning **July 1, 2022, and ending June 30, 2047**.

2. CONSIDERATION

The consideration for this easement shall be the construction, operation, and maintenance of the Premises for the benefit of the United States and the general public in accordance with the terms herein set forth.

3. NOTICES

All correspondence and notices to be given pursuant to this easement shall be addressed, if to the Grantee, to **City of El Paso, Information Technology Services, 218 North Campbell, El Paso, Texas 79912**; and if to the United States, to the Real

Estate Contracting Officer, Attention: Chief, Real Estate Division (CESWF-RE-M), Post Office Box 17300, Fort Worth, Texas 76102-0300, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to "Secretary", "Real Estate Contracting Officer", or "said officer" shall include their duly authorized representatives. Any reference to "Grantee" shall include any duly authorized representatives.

5. SUPERVISION BY THE REAL ESTATE CONTRACTING OFFICER

The use and occupation of the Premises shall be subject to the general supervision and approval of the Real Estate Contracting Office, Fort Worth District, hereinafter referred to as said officer, and to such rules and regulations as may be prescribed from time to time by said officer.

6. APPLICABLE LAWS AND REGULATIONS

The Grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances and regulations wherein the Premises are located, including but not limited to, the provisions of the latest edition of the National Electrical Safety Code (NESC) and the Environmental Protection Agency regulations on Polychlorinated Biphenyls (PCB's).

7. CONDITION OF PREMISES

The Grantee acknowledges that it has inspected the Premises, knows the condition, and understands that the same is granted without any representation or warranties whatsoever and without any obligation on the part of the United States.

8. INSPECTION AND REPAIRS

The Grantee shall inspect the Facilities at reasonable intervals and immediately repair any defects found by such inspection or when required by said officer to repair any such defects.

9. PROTECTION OF GOVERNMENT PROPERTY

The Grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the Grantee under this easement, and shall exercise due diligence in the protection of all property located on the Premises against fire or damage from any and all causes. Any property of the United States damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefor by the Grantee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

10. RIGHT TO ENTER

The right is reserved to the United States, its officers, agents, and employees to enter upon the Premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to remove timber or other material, except property of the Grantee, to flood the Premises and/or to make any other use of the lands as may be necessary in connection with government purposes, and the Grantee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

11. TRANSFERS AND ASSIGNMENTS

Without proper written approval by said Real Estate Contracting Officer, the Grantee shall neither transfer nor assign this easement or any part thereof nor grant any interest, privilege or license whatsoever in connection with this easement. The provisions and conditions of this easement shall extend to and be binding upon and shall insure to the benefit of the representatives, successors and assigns of the Grantee.

12. SUBJECT TO EASEMENTS

This easement is subject to all other existing easements, or those subsequently granted as well as established access routes for roadways and utilities located, or to be located, on the Premises, provided that the proposed grant of any new easement or route will be coordinated with the Grantee, and easements will not be granted which will, in the opinion of said officer, interfere with the use of the Premises by the Grantee.

13. REQUIRED SERVICES

The Grantee shall furnish through said Facilities such services as may be required from time to time for governmental purposes, provided that payment for such service will be made by the United States at rates which shall be mutually agreeable but

which shall never exceed the most favorable rates granted by the Grantee for similar service.

14. RELOCATION OF FACILITIES

In the event all or any portion of the Premises occupied by the said Facilities shall be needed by the United States, or in the event the existence of said Facilities is determined to be detrimental to governmental activities, the Grantee shall from time to time, upon notice to do so, and as often as so notified, remove said Facilities to such other location on the Premises as may be designated by said officer. In the event said Facilities shall not be removed or relocated within ninety (90) days after such notice, the United States may cause such relocation at the sole expense of the Grantee.

15. TERMINATION

This easement may be terminated by the Secretary upon 30 days written notice to the Grantee if the Secretary shall determine that the right-of-way hereby granted interferes with the use or disposal of said land by the United States, or it may be revoked by the Secretary for failure of the Grantee to comply with any or all of the conditions of this easement, or for non-use for a period of two (2) years, or for abandonment.

16. SOIL AND WATER CONSERVATION

The Grantee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said Premises at the beginning of or that may be constructed by the Grantee during the term of this easement, and the Grantee shall take appropriate measures to prevent or control soil erosion within the right-of-way herein granted. Any soil erosion occurring outside the Premises resulting from the activities of the Grantee shall be corrected by the Grantee as directed by said officer.

17. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties hereto shall protect the Premises against pollution of its air, ground and water. The Grantee shall comply with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the Premises is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by the said Environmental Protection Agency, or any Federal, state, interstate or local governmental agency are hereby made a condition of this easement. The Grantee shall not discharge waste or effluent from the Premises in such a manner

that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The use of any pesticides or herbicides within the Premises shall be in conformance with all applicable Federal, state, interstate, and local laws and regulations. The Grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the Premises.

c. The Grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the Grantee's activities, the Grantee shall be liable to restore the damaged resources.

18. RECORD OF ENVIRONMENTAL CONSIDERATION

A Record of Environmental Consideration (REC), documenting the known history of the property with regard to the storage, release or disposal of hazardous substances thereon, is attached hereto and made a part hereof as **EXHIBIT D**. Upon revocation or termination of this easement, another REC shall be prepared which will document the environmental condition of the property at that time. A comparison of the two assessments will assist the said officer in determining any environmental restoration requirements. Any such requirements will be completed by the Grantee in accordance with the condition on **RESTORATION**.

19. HISTORIC PRESERVATION

The Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains, or objects of antiquity. In the event such items are discovered on the Premises, the Grantee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

20. NON-DISCRIMINATION

a. The Grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion.

b. The Grantee, by acceptance of this easement, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directive 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Grantee, its agents, successors, transferees, and assignees.

21. RESTORATION

On or before the termination or revocation of this easement, the Grantee shall, without expense to the United States and within such time as said officer may indicate, restore the Premises to the satisfaction of said officer. In the event the Grantee shall fail to restore the Premises, at the option of said officer, said improvements shall either become the property of the United States without compensation therefore, or said officer shall have the option to perform the restoration at the expense of the Grantee, and the Grantee shall have no claim for damages against the United States or its officers or agents for such action.

22. DISCLAIMER

This instrument is effective only insofar as the rights of the United States in the Premises are concerned; and the Grantee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this easement does not eliminate the necessity for obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. § 403), Section 404 of the Clean Water Act (33 U.S.C. § 1344) or any other permit or license which may be required by Federal, state, interstate or local laws in connection with the use of the Premises.

23. DETERMINATION REGARDING EXECUTIVE ORDER 13658

a. It has been determined this contract is not subject to Executive Order 13658 or the regulations issued by the Secretary of Labor in 29 CFR Part 10 pursuant to the Executive Order.

b. If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suites, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

24. DETERMINATION REGARDING EXECUTIVE ORDER 13706

It has been determined this contract is not subject to Executive Order 13706 or the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the Executive Order.

25. ADDED CONDITIONS

a. Grantee shall restrict the use of the Premises to official City, County, State, and Federal communications only.

b. Grantee shall allow Fort Bliss to use the facility, including the use of the Grantee's electrical power at no cost to the government, in order to continue the existing tower co-use agreement with Fort Bliss.

c. Grantee shall allow appropriate Fort Bliss personnel access to the Premises for maintenance purposes

d. Grantee shall furnish Fort Bliss DPW a copy of the license from the Federal Communication Commission, authorizing the use of specific frequencies by the City of El Paso as required in the original Easement No. DACA47-2-94-118.

e. The Grantee shall provide to said officer a survey and legal description for said facility within 120 days from execution of this easement on behalf of the Government. Following approval, the survey and legal description will be attached hereto and made a part hereof as **EXHIBITS B** and **C**. The legal description should not include any more land than is necessary and should tie into a known U.S. Government monument. Submittals shall conform to the following:

(1) . Drawings are to be in DGN (Microstation) or SHP (ArcGIS) file format (preferably both) and georectified in Texas State Plane 4203 Central, UTM Zone 13 North.

(2) Legal descriptions are to be furnished in DOCX (WORD).

(3) PDF (and or copies) of the survey drawings and legal description must be signed and stamped (finalized version) by the surveyor.

THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

THIS EASEMENT is not subject to Title 10, United States Code, Section 2662, as amended.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army this _____ day of _____ 2023.

Lee A. Flannery
Deputy Chief, Real Estate Division
Real Estate Contracting Officer

THIS EASEMENT is also executed by the Grantee this _____ day of _____ 2023.

CITY OF EL PASO

Tomás González
City Manager

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Danielle Escontrias

Danielle Escontrias
Assistant City Attorney

APPROVED AS TO CONTENT:

Carolyn Patrick For A Guerra

Araceli Guerra, Managing Director
Department of Information Technology Services

CERTIFICATE OF AUTHORITY

I, _____ (Name), certify that I am the

_____ (Title) of **City of El Paso** and that,

_____ (signator of outgrant), who signed the foregoing
instrument on behalf of the Grantee, was authorized to sign for **City of El Paso**. I further
certify that the said officer was acting within the scope of powers delegated to this
governing body of the Grantee in executing said instrument.

City of El Paso

Date

Member or Manager

NOTE: This form certifies that the person signing the attached instrument has the authority to do so. The signature of the Secretary/Attesting Officer and the individual signing the attached instrument cannot be the same person.

ACKNOWLEDGMENT

STATE OF TEXAS }
 } **SS.**
COUNTY OF TARRANT }

On this _____ day of _____, 2023, before me, the undersigned officer, personally appeared within named Lee A. Flannery, Deputy Chief, Real Estate Division, United States Army Corps of Engineers, Fort Worth District, on behalf of the United States of America, and known to me to be the person whose name is subscribed to the foregoing instrument by virtue of the above-cited authority and acknowledged to me that he executed the same in such capacity for the purposes and consideration therein expressed.

Given under my hand and seal this _____ day of _____, 2023.

Notary Public, State of Texas
My Commission Expires: _____
Printed Name: _____

STATE OF TEXAS }
 } **SS.**
COUNTY OF _____ }




On this _____ day of _____, 2023, before me, the undersigned officer, personally appeared _____, known to me to be the person described in the foregoing instrument, who acknowledged that he executed the same in the capacity therein stated and for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

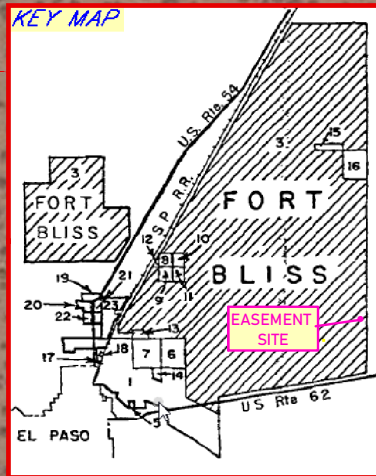
Notary Public, State of Texas
My Commission Expires: _____
Printed Name: _____

**EMERGENCY SERVICES RADIO TOWER EASEMENT
CITY OF EL PASO
FORT BLISS TRACT 2401-3
Fort Bliss, El Paso County, Texas**

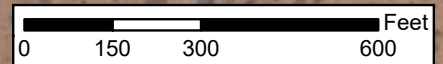
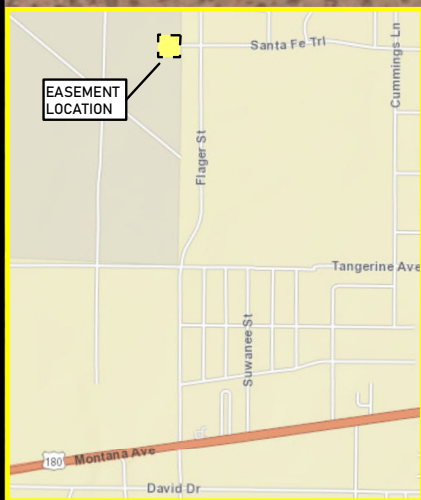
Legend

-  EASEMENT AREA 5.739 ACRES
-  FORT BLISS INSTALLATION BOUNDARY
-  FORT BLISS TRACT BOUNDARY

2402-2



2401-3

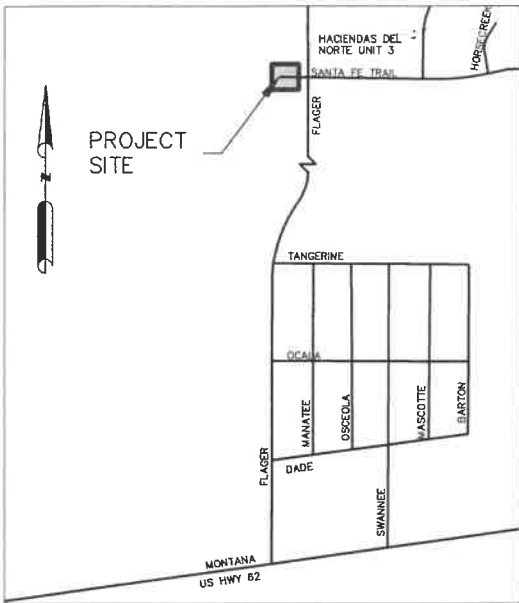


Map by: JRW

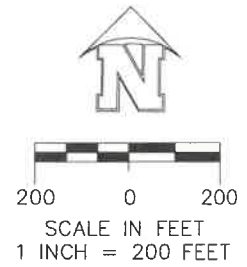
The U.S. Army Corps of Engineers has depicted this spatial data as a representation of the various geographic information gathered from multiple sources. This data should be viewed only as a representation of the data and should not be used for any other purpose. No guarantee is made by the U.S. Army Corps of Engineers regarding the accuracy or completeness of the data or their suitability for a particular use.



US Army Corps of Engineers®
Fort Worth District

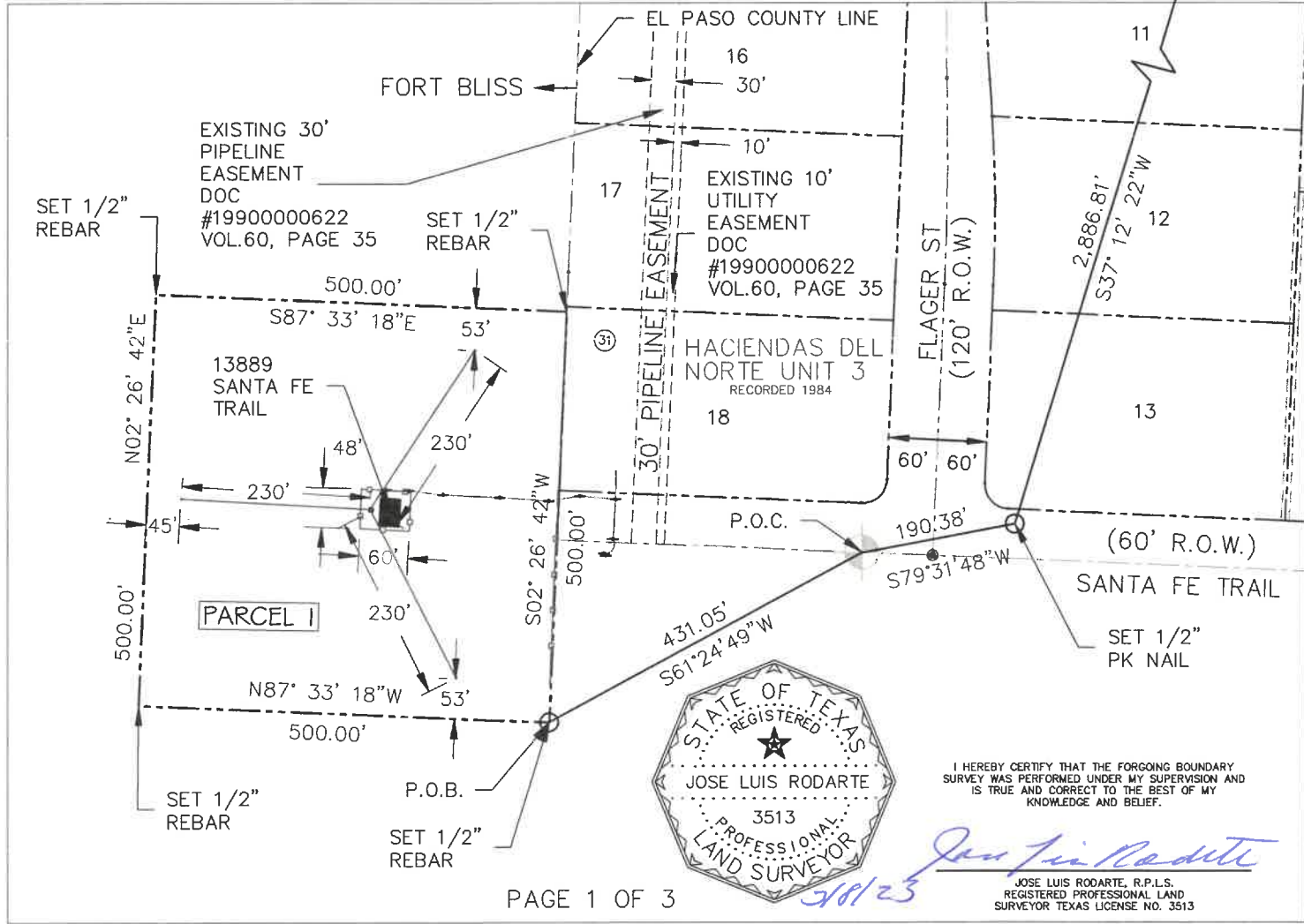


VICINITY MAP
N.T.S.



FOUND 1/2" REBAR
YELLOW CAP BN
NORTH-EAST CORNER
OF LOT 17, BLOCK 38
(14041 FT APACHE LN)

FOUND REBAR
YELLOW CAP TX 5372
WEST CORNER
OF LOT 3, BLOCK 40
(5060 POWDER RIVER LN)



I HEREBY CERTIFY THAT THE FORGOING BOUNDARY SURVEY WAS PERFORMED UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Jose Luis Rodarte
JOSE LUIS RODARTE, R.P.L.S.
REGISTERED PROFESSIONAL LAND SURVEYOR TEXAS LICENSE NO. 3513

County: El Paso
 Project: Fort Bliss Eastside Tower
 Parcel No: 1 of 1
 Limits: West of Flager Street & Santa Fe Trail intersection.

March 8, 2023

METES AND BOUNDS DESCRIPTION

EMERGENCY SERVICES RADIO TOWER EASEMENT

FORT BLISS TRACT 2401-3

A TRACT OF LAND CONTAINING 5.739 ACRES, MORE OR LESS, CONTAINING A PORTION OF BLOCK 79, TOWNSHIP 2, SECTION 13, TEXAS & PACIFIC RAILROAD SURVEYS, ABSTRACT 2128 AND A PORTION OF BLOCK 79, TOWNSHIP 2, SECTION 24, TEXAS & PACIFIC RAILROAD SURVEYS, ABSTRACT 3752, LOCATED IN FORT BLISS, EL PASO COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A SET ½" REBAR FOUND APPROXIMATELY 87 FEET SOUTHWEST OF THE INTERSECTION OF FLAGER STREET AND SANTA FE TRAIL, **THENCE** TRAVELING SOUTH 61° 24' 50" WEST FOR A DISTANCE OF 431.05 TO A SET ½" REBAR BEING THE SOUTHEAST CORNER OF THE EMERGENCY SERVICES RADIO TOWER EASEMENT, FORT BLISS TRACT 2401-3, AND THE **TRUE POINT OF BEGINNING** OF THIS DESCRIPTION,

THENCE, TRAVELING NORTH 87° 33' 18" WEST FOR A DISTANCE OF 500.00 FEET TO A SET ½" REBAR;

THENCE, TRAVELING NORTH 2° 26' 42" EAST FOR A DISTANCE OF 500.00 FEET TO A SET ½" REBAR;

THENCE, TRAVELING SOUTH 87° 33' 18" EAST FOR A DISTANCE OF 500.00 FEET TO A SET ½" REBAR;

THENCE, TRAVELING SOUTH 2° 26' 42" WEST FOR A DISTANCE OF 500.00 FEET TO A SET ½" REBAR TRAVELING SOUTHWEST ALONG THE BOUNDARY OF THE HACIENDAS DEL NORTE UNIT 3 WESTER BOUNDARY; AND BEING THE **TRUE POINT OF BEGINNING**, CONTAINING APPROXIMATELY 5.739 ACRES (250,000 SQUARE FEET) OF LAND.

This parcel description is accompanied by a plat of even date.

Bearing Basis:

All bearings shown are based on NAD 83 (1996) Texas State Plane Coordinate System, Central Zone. All distances shown are surface and may be converted to grid by dividing by a surface adjustment factor of 1.00023100. All distances are in U.S. Survey feet.

County: El Paso
Project: Fort Bliss Eastside Tower
Parcel No: 1 of 1
Limits: West of Flager Street & Santa Fe Trail intersection.

March 8, 2023

THE STATE OF TEXAS

COUNTY OF EL PASO

KNOW ALL MEN BY THESE PRESENTS:

That I, Jose L. Rodarte, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision

WITNESS MY HAND AND SEAL at El Paso, El Paso County, Texas on the date shown below.



GRV Integrated Engineering Solutions, LLC
11385 James Watt Dr., Suite B-13
El Paso, TX 79936
TX Firm No. 10194278

Jose L. Rodarte

Jose L. Rodarte Date
Registered Professional Land Surveyor
No. 3513 -State of Texas

PLACEHOLDER FOR LEGAL DESCRIPTION

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

TO: Directorate of Public Works, Fort Bliss, Texas

FROM: Directorate of Public Works – Environmental Division, Fort Bliss, Texas

PROJECT TITLE: Renewal of City of El Paso Easement DACA 47-2-94-118 on Fort Bliss

BRIEF DESCRIPTION: City of El Paso requests to renew Easement DACA47-2-94-118 (term ending on 24 March 2019) for the continued operation and maintenance of their communications transmission tower and an adjacent 24-ft x 31-ft equipment building, located on approximately 5.739 acres of land on Fort Bliss West of Flager Street (Figure 1). The 300-foot tower is a part of the radio communications system for the city of El Paso’s police and fire departments, and emergency medical services. A need exists for reliable emergency services radio communications within this area and, therefore, the operation of the tower must continue. Fort Bliss co-uses the tower for their ambulance service communications network.

DISCUSSION: The easement renewal will be for the continued operation and maintenance of the communications transmission tower and equipment building for the benefit of the general public. The purpose of the easement, grantee, and length of term will remain the same. The easement will stipulate that Fort Bliss personnel will have access to the tower site for inspections.

No military training has occurred near the transmission site since granting of the original easement that would have changed the overall condition of the area or the tower property itself. No new Defense Environmental Restoration Account sites have been identified in the area that would impact the site. No spills of hazardous materials have been reported on or near the site. The tower site has been checked for archaeological sites and none were identified. No sensitive or protected biological species or resources exist at the site.

ANTICIPATED DATE AND/OR DURATION OF PROPOSED ACTION: The renewal will occur on March 2019 and continue for at least 25 years.

DETERMINATION: The proposed action is renewal of an existing 20-year easement held by the City of El Paso, as such, the existing and future use for a transmission tower does not significantly alter land use. This project meets the screening criteria for a Categorical Exclusion as defined in CX (f) (1) of Appendix B, 32 CFR, Part 651, Environmental Analysis of Army Actions: Grants or acquisition of leases, licenses, easements, and permits for use of real property in which there is no significant change in land or facility use. A separate Environmental Impact Statement (EIS) or Environmental Assessment (EA) is therefore not required for this action.

PROPONENT:

BHARAT.ANGELI
CA.S.1228891084

Digitally signed by
BHARAT.ANGELICA.S.12288910
84
Date: 2021.04.08 08:37:12 -06'00'

8 April 2021

ANGELICA S. BHARAT
Chief, Master Planning Division
Directorate of Public Works, Fort Bliss

Date

REVIEWED BY:

Sylvia A. Waggoner
SYLVIA A. WAGGONER
Chief, Environmental Division
Directorate of Public Works, Fort Bliss

6/7/19
Date

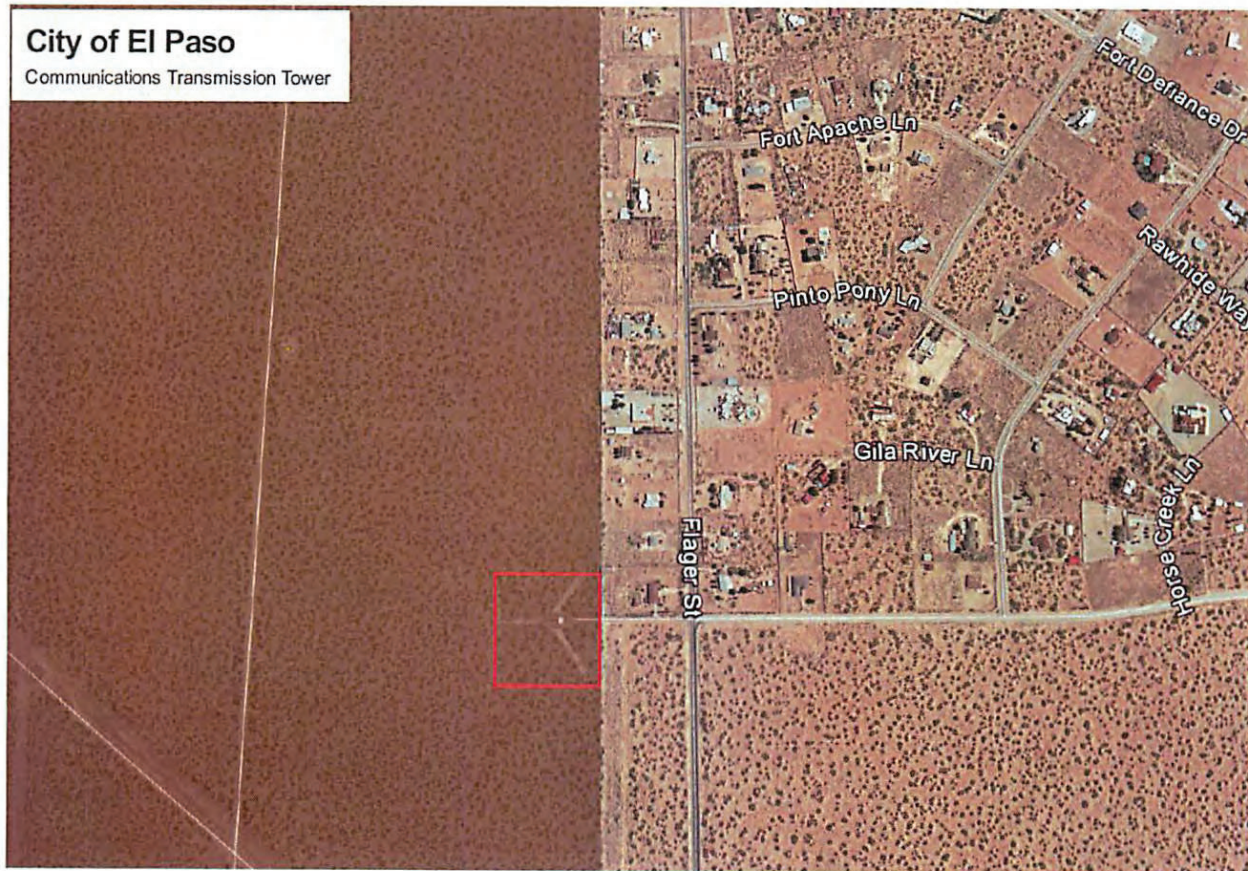


Figure 1. Site Location of the El Paso Transmission Tower