



# KNAPP LAND & LOST DOG CONSERVATION EASEMENTS: ORDINANCES

May 11, 2021

# COMPONENTS OF THE CONSERVATION EASEMENT:



- Agreement
- Exhibits
  - Legal Description
  - Plat or Survey
  - Baseline Report
  - Excluded areas
  - Land Management Plan
  - Exceptions to Conveyance
  - Chevron Waiver

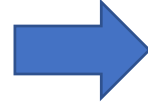
# THERE ARE TWO CONSERVATION EASEMENTS ON THE AGENDA:

1. Knapp Property Conservation Easement
  2. Lost Dog Property Conservation Easement
- A conservation easement is a voluntary, legal agreement that permanently limits uses of the land, and defines how the property will be managed, in order to protect its conservation values in perpetuity.
  - Knapp Land and Lost Dog, separate and uniquely different properties, were prepared at the same time to increase the efficiencies in their similarities during the conservation easement processes.

# KNAPP PROPERTY PROGRESSION:

**2018**

ACQUIRED AS OPEN SPACE IN 2018 WHEN THE CITY PURCHASED THE PROPERTY USING QUALITY OF LIFE FUNDS AND THE MUNICIPAL DRAINAGE UTILITY SYSTEM'S 10% FUND (72.41 ACRES DONATED BY FORMER OWNER)



**6-11-19**

COUNCIL DIRECTS CITY STAFF TO USE FRONTERA LAND ALLIANCE FOR CONSERVATION EASEMENT



**2020-2021**

WORKED ON DEVELOPING AND FINALIZING AGREEMENTS TO INCLUDE EXHIBITS LIKE PHASE 1, LAND MANGEMENT PLAN, SURVEYS (COORDINATION WITH MULTIPLE PARTIES: EP WATER, FRONTERA, CITY OF EL PASO, CHEVRON)



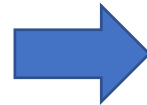
**4-27-21**

CONSERVATION EASEMENT POSTED ON CITY COUNCIL AGENDA

# LOST DOG PROPERTY PROGRESSION:

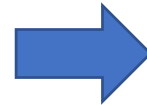
**6-23-2019**

ACQUIRED AS OPEN SPACE WHEN COUNCIL AUTHORIZED THE USE OF THE 10% FUND TO COMPENSATE THE UTILITY SYSTEM FOR FAIR MARKET VALUE FOR THE PROPERTY AND TO LEAVE THE LAND IN THE EL PASO WATER UTILITY INVENTORY



**2-18-20**

COUNCIL DIRECTS TO CITY STAFF TO PLACE LOST DOG INTO A CONSERVATION EASEMENT



# CONSERVATION EASEMENT LEGAL DOCUMENT PROVISIONS OVERVIEW:



## Conservation Values

- Conserving the Property will result in a public benefit because the Property contains open space for recreation, scenic qualities, and a variety of wildlife, subsurface water and plant life, all of which are important to the citizens of the City and the region.

## Existing Uses

- Frontera intends that the Conservation Values of the Property be preserved and maintained by the continuation of land use patterns existing at the time of execution of this Easement, including open natural space for wildlife habitat, water conservation, passive recreation, open scenic views, and utility infrastructure and storm water drainage

## Conservation Easement

- Grantor further intends to convey to Grantee the rights necessary to preserve and protect the Conservation Values of the Property



# KNAPP PROPERTY





# LOST DOG PROPERTY



Fossil found on north Lost Dog



barrel cactus

# KNAPP PROPERTY & LOST DOG PROPERTY- Common Elements (summarized):

- Sections pertaining to:

- Permitted and Prohibited Uses
- Rights and Consent
- Land Management Plan
- Enforcement
- Public Access
- Exceptions
- Costs, Taxes, Insurance
- Extinguishment and Eminent Domain
- Mining
- Assignments, Recordation, and Notices
- General Provisions and Exhibits

- Agreements both contain  
(Exhibits):

- Legal Description
- Plat or Survey
- Baseline Report
- Excluded areas
- Land Management Plan
- Exceptions to Conveyance
- Chevron Waiver



# Common Elements (summarized):

- **Grantor's Permitted Uses:**

- **Existing Uses** (including storm water drainage): to maintain and continue
- **Right of Entry:** ingress and egress to the property
- **Recreational Uses:** engage in passive recreation (such as but not exclusively hiking, biking, photography and birding)
- **Water:** rights to water, subsurface and storm water
- **Drainage:** install, construct or maintain drainage structures *within excluded areas*
- **Existing Improvements:** may be repaired and maintained
- **Fences:** may be repaired and replaced
- **Habitat Management:** control noxious vegetation, improve habitat and environmental quality
- **Utility Improvements:** may be repaired or replaced

## Common Elements (summarized):

- Grantor's Permitted Uses (cont'd):
  - Transfer: may sell or convey subject to Easement
  - **\*Historic and Cultural Resources:** right to investigate, excavate and remove
    - Coordination with Grantee and through Texas State Historic Preservation Office
  - Roads: maintenance is permitted
  - Emergency vehicles operation and Habitat restoration work: motorized vehicle operation associated with fire, life, water, or property emergency response and habitat restoration work
  - Restoration: Restore damage cause by natural disasters
  - Trash receptacles: may provide and maintain
- Grantor's Reserved Rights
- Non-Interference with Grantor's Permitted Uses and Reserved Rights

\*Updated since April 27th, 2021

## Common Elements (summarized):



- **Grantee's Rights:**

- **Right to Protect:** protect Conservation Values
- **Right of Entry and Inspect:** ingress and egress to the property and inspect property for compliance
- **Restoration:** restore to condition prior to damage (can be through 3rd party agreement)
- **Monitoring:** monitor condition of populations, resources, and characteristics
- **Service Fee:** receive a service fee for services (under separate agreement)
  - Knapp-\$12,000
  - Lost Dog-\$17,650



## Common Elements (summarized):

- Prohibited Uses of the Property

- **Structures and Improvements:** Unimproved roads to be maintained; no placement of structures
- **No Vehicles:** no motorized vehicles
- **Paving and Road Construction:** No paving of existing roads; no new roads constructed
- **Subdivision:** no division or subdivision
- **Agricultural activities:** no farming or agricultural activities
- **Trash:** no dumping or accumulation of trash
- **Commercial or Industrial Activity:** no commercial or industrial use
- **Hunting and Trapping:** No hunting, shooting, or trapping
- **Recreational Construction and Usage:** No barbecue grills, picnic tables, or receptacles
- **Pest and Weed Control:** eradication of weeds
- **Signage:** No display of billboards, signs or advertisement; existing signs may be maintained or replaced, ***only signs related to the conservation easement and informational/wayfinding signs are allowed by Grantee.***
- **Future Uses:** To be consistent with Conservation Values

## Common Elements (summarized):

- **Grantee's Discretionary Consent**
  - Consent for prohibited uses may be given under circumstances
- **Land Management Plan**
  - Updated every 10 years
  - Intended to be supplemental to the Easement
- **Enforcement**
  - Grantee has right to prevent and correct or require correction of violation
  - Notification of violation
- **Acts Beyond Grantor's Control**
- **Public Access**
  - Nothing to be construed as interfering with public's access
- **Costs, Upkeep, and Maintenance**
  - Under no circumstances will Grantee be liable or responsible for costs relating to operation, upkeep, or maintenance
- **Taxes**
  - No property taxes

## Common Elements (summarized):

- Hazardous Materials
- Insurance and General Liability
- Extinguishment
  - If circumstances arise to render purpose impossible to accomplish
- Eminent Domain
  - If property taken by eminent domain, join in appropriate actions
- Mining
  - Chevron Waiver
    - Waive certain rights for 30 years
    - Chevron and Grantee required to sign, otherwise easement is void
- Assignment
  - May be assigned or transferred
- Recordation/Subsequent Transfers
  - Recordation within 10 days



# Common Elements (summarized):

- Notices
- General Provisions
  - Controlling law, severability, entire agreement, successors and assigns, termination of rights, counterparts, caption, amendments, and effective date
- Exhibits
  - Unique to each easement
- Chevron Waiver
  - Includes:
    - Waiver:
      - Waives, releases, and relinquishes all of its rights to use the Surface Lands
        - Right to Enter for purpose of exploring, developing drilling, producing, treating, storing or transporting minerals
    - Term: 30 Years

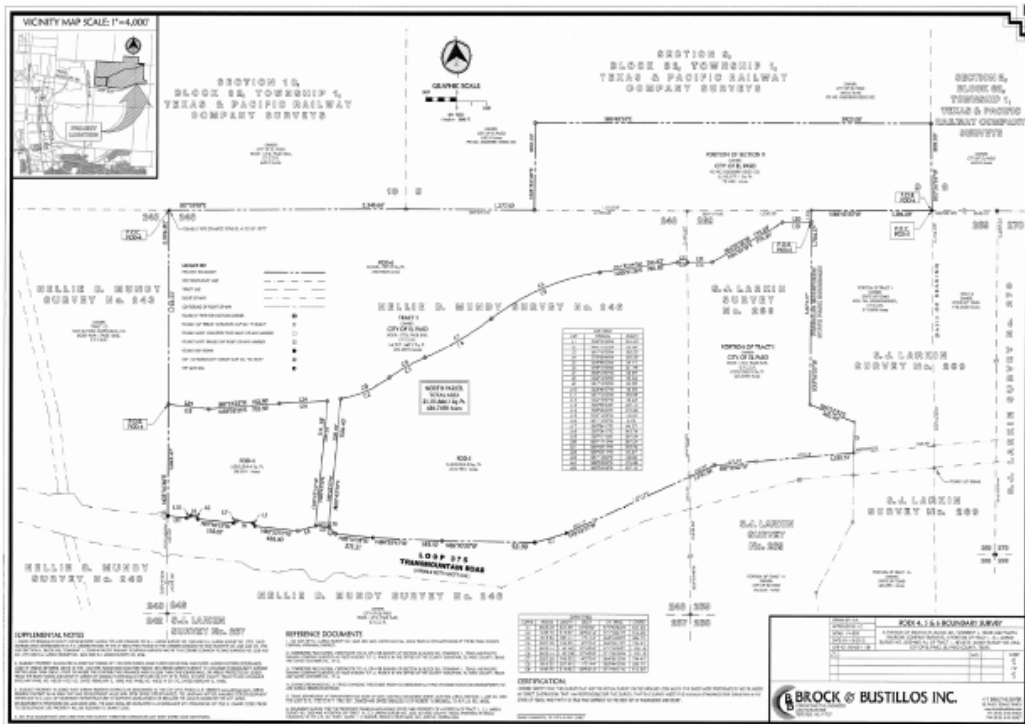
# Common Elements (summarized):

- Chevron Waiver (cont'd)

## Exhibits

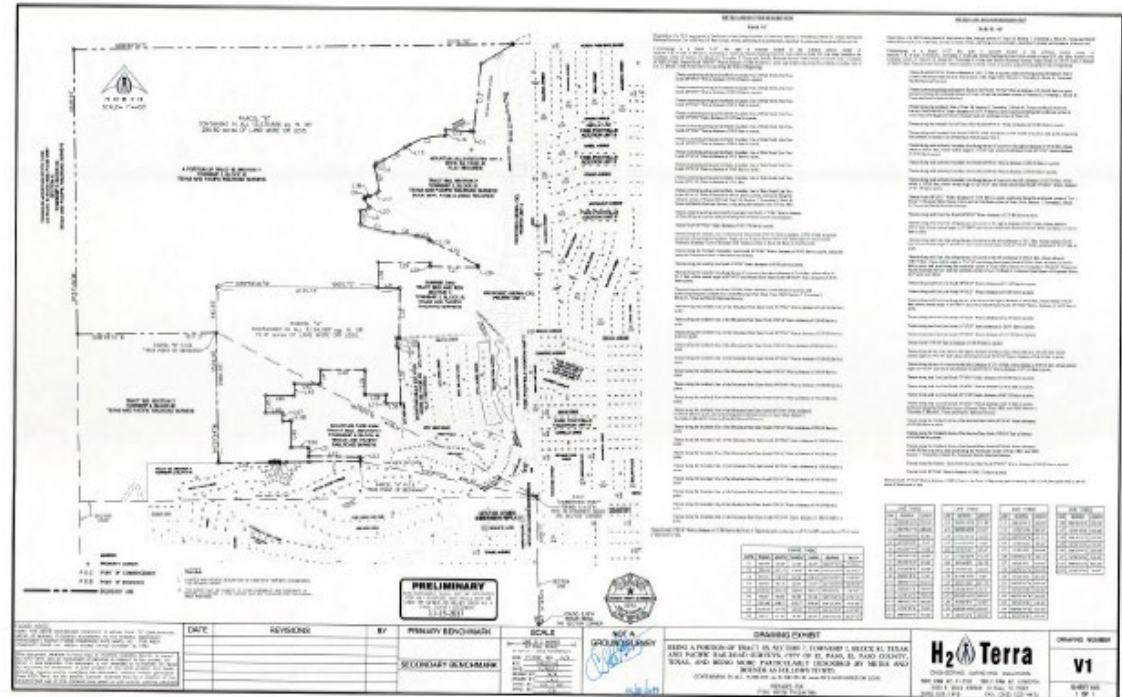
### EXHIBIT A – DESCRIPTION OF LAND

Attached to and made part of that certain WAIVER OF SURFACE RIGHTS AGREEMENT dated February 1, 2020 between CHEVRON U.S.A. INC., as Mineral Owner, CITY OF EL PASO and EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, as Surface Owner, and FRONTERA LAND ALLIANCE, as Easement Grantee.



### EXHIBIT A – DESCRIPTION OF LAND (CONTINUED)

Attached to and made part of that certain WAIVER OF SURFACE RIGHTS AGREEMENT dated February 1, 2020 between CHEVRON U.S.A. INC., as Mineral Owner, CITY OF EL PASO and EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, as Surface Owner, and FRONTERA LAND ALLIANCE, as Easement Grantee.



END OF EXHIBIT A

# KNAPP PROPERTY -Unique Elements (summarized):



- City of El Paso and El Paso Water Utilities each own a portion of the Knapp Property
  - Collectively the "Grantor"
- Approximately 353 acres total
  - Memorandum of Understanding (2018) to transfer 158.13 acres to El Paso Water for joint use
    - "El Paso Water Parcel"
- **Exhibits**
  - All exhibits unique/specific to property
    - Legal Description
    - Plat or Survey
    - Metes and Bounds of El Paso Water Parcel
    - Baseline Report
    - Excluded areas
    - Land Management Plan
    - Exceptions to Conveyance
      - Easements
      - Mineral Interest



# KNAPP PROPERTY-Unique Elements (summarized):

- **Grantor's Permitted Uses**

- **Fences**

- Existing fences on eastern property boundary line

- **Accessory Structures**

- Right to construct accessory structures, including without limitation, an education kiosk structure in "Building Envelope"
- No structures in excluded areas
- Not impede storm water drainage flow paths
- Subject to approval, no maximum number of accessory structures

- **Parking**

- Right to construct and maintain a parking lot
- Utility improvements may be enlarged within Building Envelope

- **Grantee's Prohibited Uses**

- **Trash**

- May install trash cans

- **Cost, Upkeep, and Maintenance**

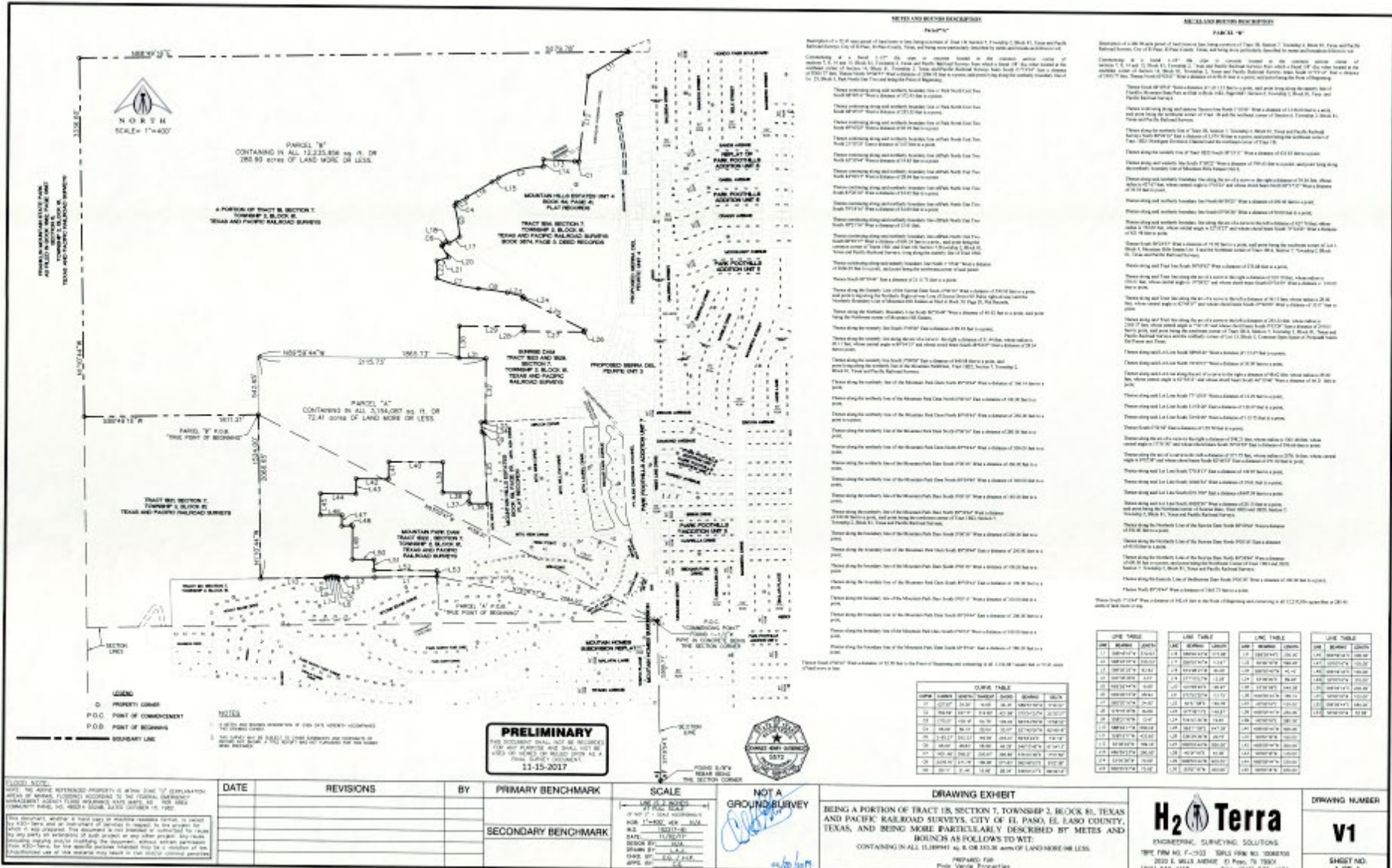
- City to bear cost and responsibilities for City property
- El Paso Water to bear costs and responsibilities for El Paso Water Parcel and joint use access area

# KNAPP PROPERTY-Unique Elements (summarized):



- Survey & Metes and Bounds (2)

**2 Parcels**  
 280.90 acres  
 (2021 QOL)  
 &  
 72.41 acres  
 (Donation)

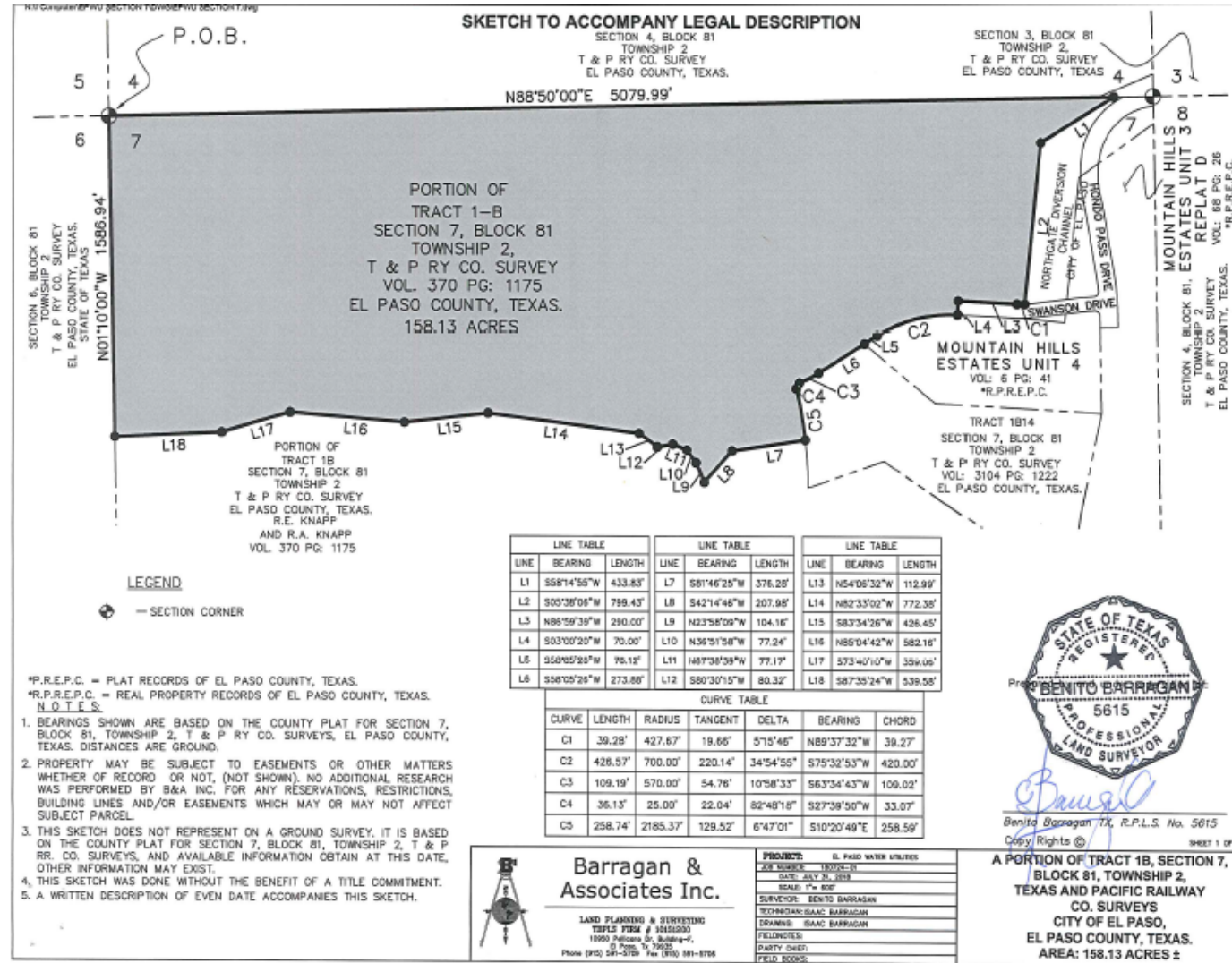


# KNAPP PROPERTY-Unique Elements (summarized):



## • Survey & Metes and Bounds (El Paso Water Parcel)

**Parcel**  
158.13 acres  
(10% Storm Water)





# KNAPP PROPERTY-Unique Elements (summarized):

## • Baseline Report

First draft prepared: July 2020 - April 2021

The baseline report provides a “baseline” for measuring future changes in the property's conservation resources and other man-made or natural features.

- Historical information
- Summary of Easement provisions
- Purpose of easement
- Existing Rights on Property
- Phase 1 Environmental Assessment
- Historic and Current State of the Land
- Ecological Features
- Water Source, Water Demands and Geology
- Soils
- Scenic Features
- Photo Documentation
- Species List
- Statement of Resources



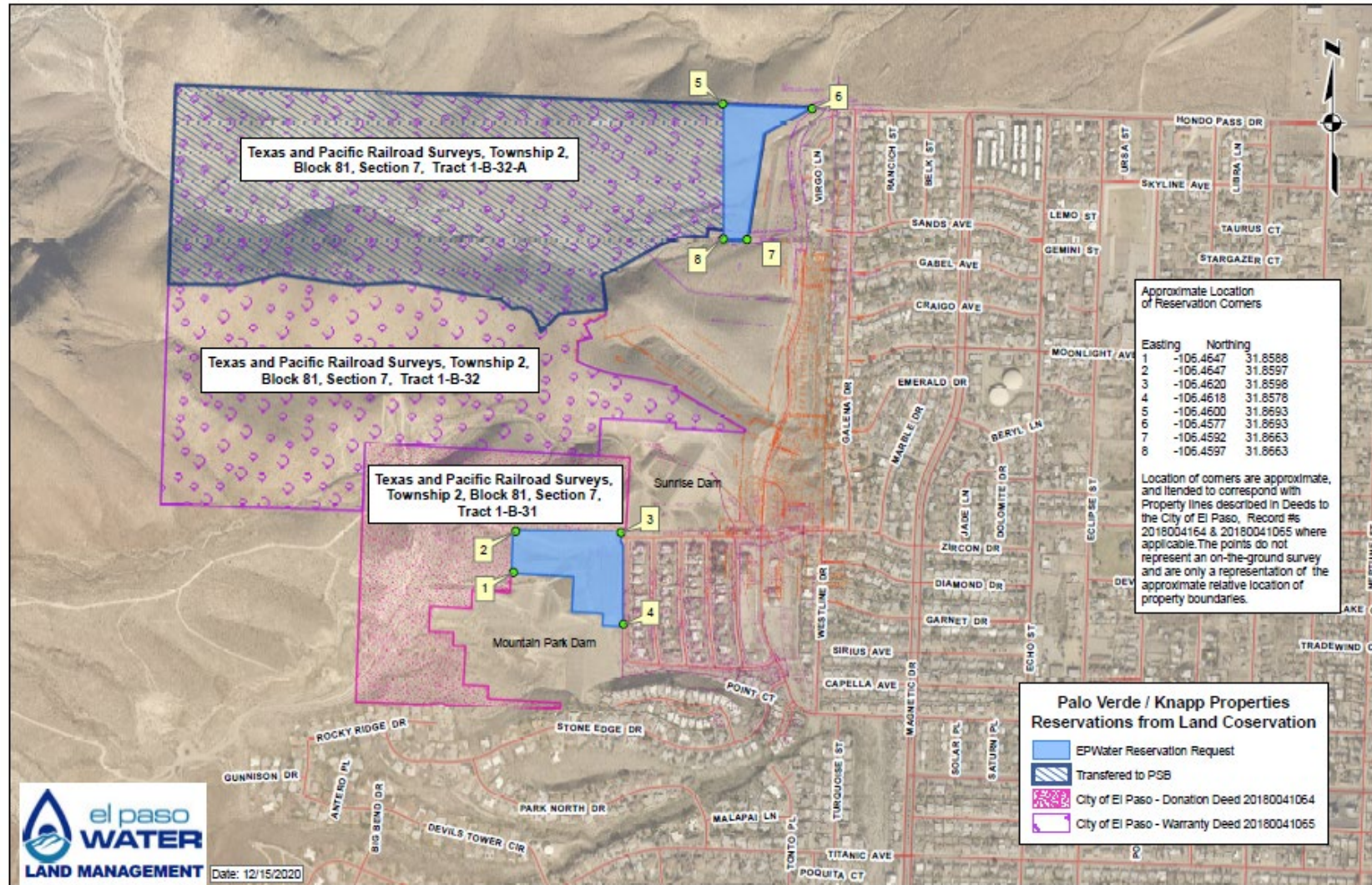
View of Castner Range next to Knapp Land in the far distance





# KNAPP PROPERTY-Unique Elements (summarized):

- Areas Excluded from Conservation Easement



# KNAPP PROPERTY-Unique Elements (summarized):

- Exceptions to Conveyance and Warranty

Easements

- El Paso Electric Company and Mountain States Telephone and Telegraph Company

Mineral Interest

Leases, grants, exceptions or reservations for minerals whether listed or not

Utility Easements

- Land Management Plan

Purpose

- Serves as a reference and guide to assist each party
- Supplemental to the Easement
- Conserving the Property will result in a public benefit
- Assist in the protection of native landscapes, geological formations and provide a unique outdoor experience for generations to come

Periodic Review

- No less than once every 10 years

Landscape Analysis

- Refers to Baseline Report

# KNAPP PROPERTY-Unique Elements (summarized):



## • Land Management Plan (cont'd)

### Rights and Obligations of the Parties

#### Grantor

- Maintain uses
- Ingress and egress
- Restore any damage
- Allow public to engage in passive recreational uses
- Water rights
- Install or construct drainage structures
- Maintain or remodel existing improvements
- Removal of structures
- Repair or replace fences
- Control noxious weeds, improve wildlife habitat and environment
- Restore disturbed areas
- Lease land within building envelope
- Investigate artifacts
- Operate motorized vehicles for emergencies
- Secure funding to restore damage caused by disaster
- Secure funding to restore damage
- Construct or maintain parking lot
- Provide or maintain trash receptacles
- Bear responsibility for maintenance
- Enforce rules and ordinance of City

#### Grantee

- Preserve and protect Conservation Values
- Enter the property at any time
- Inspect for compliance
- Secure funding to restore area harmed by violation
- Prevent and correct or require correction of violations
- Monitor conditions of populations, resources, and characteristics during annual inspections
- Funding to restore disturbed area following utility improvements
- Place signs on property
- Monitor trail conditions
- May enter into agreements for maintenance and repair with third party

# LOST DOG PROPERTY -Unique Elements (summarized):



- Approximately 1,001 acres
- In February 2020, City Council directed staff to place conservation easement over property
- **Exhibits**
  - All exhibits unique to property
    - Legal Description
    - Plat or Survey
    - Baseline Report
    - Excluded areas
    - Land Management Plan
    - Exceptions to Conveyance
      - Easements
      - Mineral Interest
      - Minerals to the State of Texas



# LOST DOG PROPERTY -Unique Elements (summarized):



- **Cost, Upkeep, and Maintenance**

- El Paso Water to bear costs and responsibilities as long as property is in inventory

- **Hazardous Materials**

- Environmental Phase I by Wood Environment & Infrastructure Solutions Inc. date completed October 16, 2020

- **Mining**

- State of Texas has certain mineral rights
  - Not been waived



# LOST DOG PROPERTY -Unique Elements (summarized):

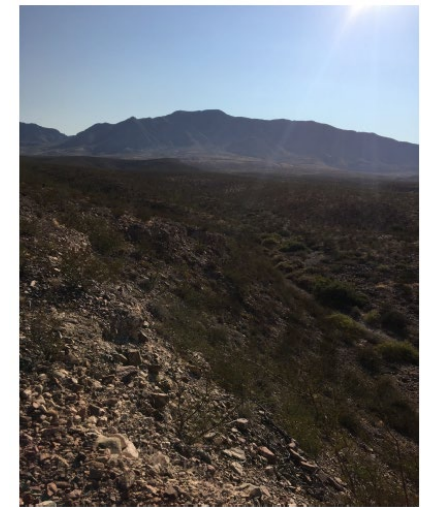
- Baseline Report

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- Historical information
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- Purpose of easement:
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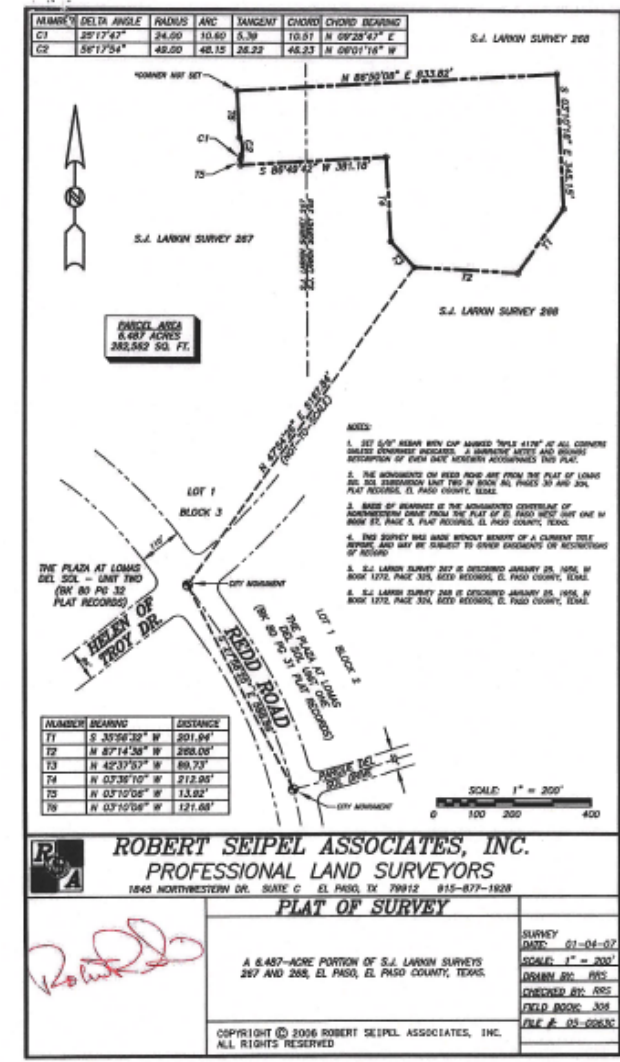
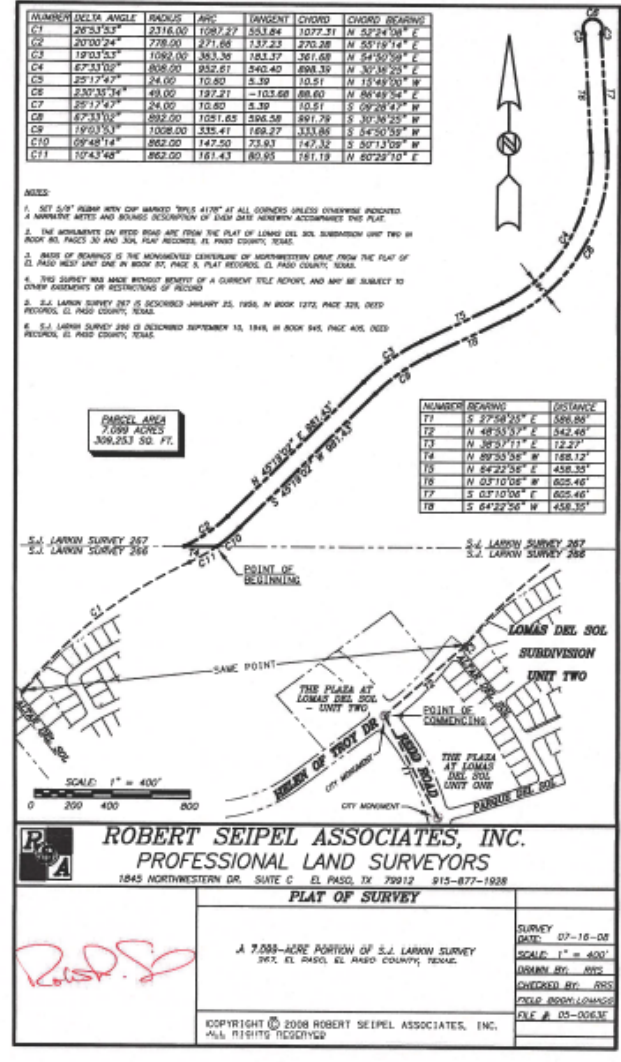
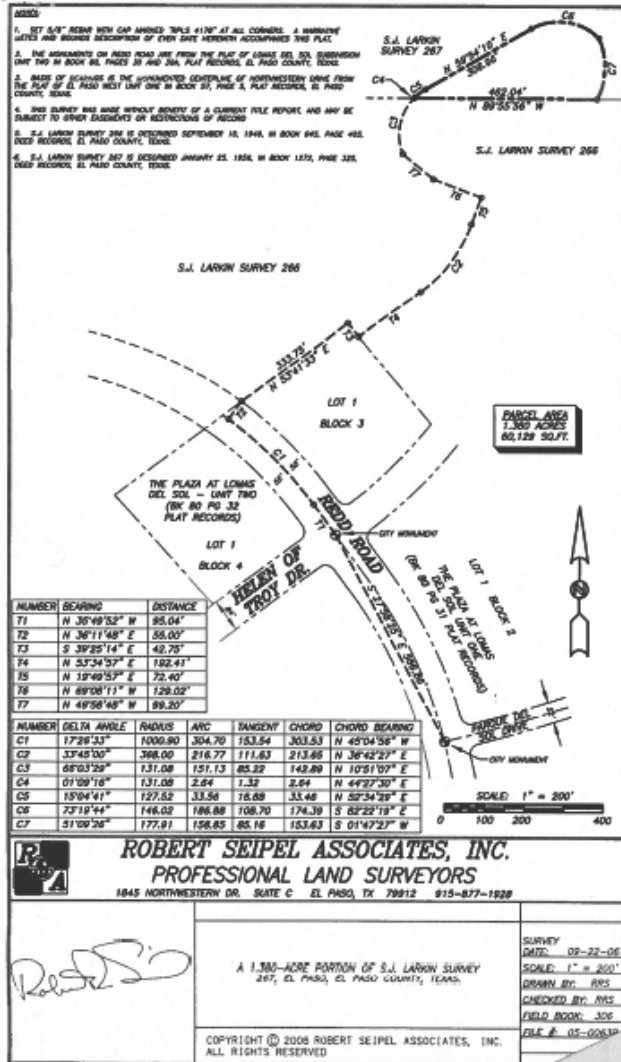
Overview map of Lost Dog Conservation Easement: Outlined in blue.





# LOST DOG PROPERTY -Unique Elements (summarized):

- Areas Excluded from Conservation Easement

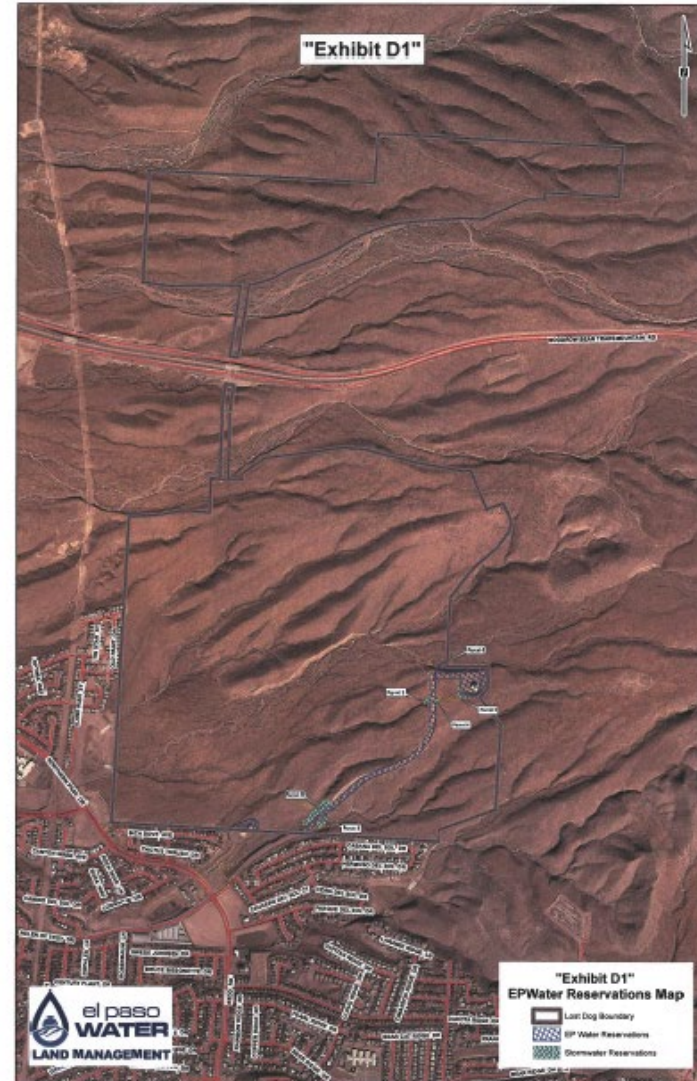
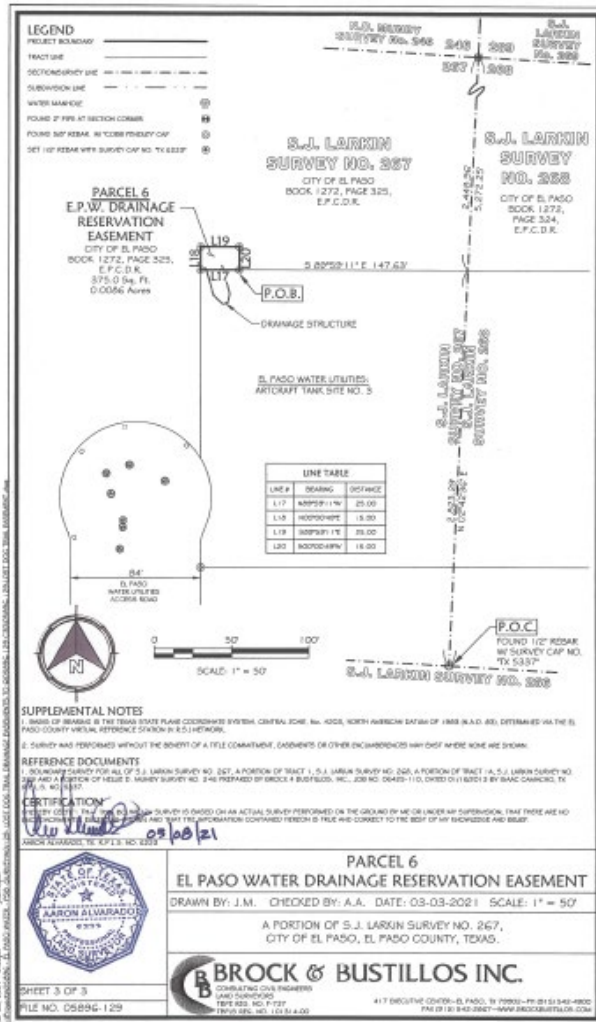






# LOST DOG PROPERTY -Unique Elements (summarized):

- Areas Excluded from Conservation Easement (cont'd)



# LOST DOG PROPERTY -Unique Elements (summarized):

- Exceptions to Conveyance and Warranty

Easements

- El Paso Electric Company

Mineral Interest

Reservation of all minerals to the State of Texas

Leases, grants, exceptions or reservations for minerals whether listed or not

- Land Management Plan

Purpose

- Serves as a reference and guide to assist each party
- Supplemental to the Easement
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Periodic Review

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Landscape Analysis

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# LOST DOG PROPERTY -Unique Elements (summarized):



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### Rights and Obligations of the Parties

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- Restore any damage
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- Repair or replace fences
- New fences may be built
- Control noxious weeds, improve wildlife habitat and environment
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- Investigate artifacts
- Maintain roads
- Operate motorized vehicles for emergencies
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# What's Next:

- Approval of the Conservation Easement:

  - 1<sup>st</sup> Reading of the Ordinances (April 27, 2021)

  - 2<sup>nd</sup> Reading of the Ordinances (May 11, 2021)

- Agreements and Waiver

  - To be executed separately

- Strategic Plan Integration

  - Open Space Master Plan

  - Eco-Tourism

    - Eco-tourism was one of the fastest growing segments of travel industry, increasing by some estimates at 10% annually year-over-year.
      - Destination El Paso
      - Parks and Recreation
      - Partnerships with State and Federal Parks Systems

## Requested Action:

- Approval of the Conservation Easements:
  - Ordinances
    - Knapp Property-ITEM #32
    - Lost Dog Property-ITEM #31

## MISSION



Deliver exceptional services to support a high quality of life and place for our community

## VISION



Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government



## VALUES

Integrity, **R**espect, **E**xcellence,  
**A**ccountability, **P**eople