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April 17, 2024

CATEGORICAL EXCLUSION

TO ALL INTERESTED AGENCIES AND PUBLIC GROUPS:

As provided by the state environmental review process adopted in the rules of the Texas Water Development Board (TWDB), 31 Texas Administrative Code (TAC) § 375.61, for projects to be funded through the Clean Water State Revolving Fund (CWSRF) Program and consistent with the National Environmental Policy Act, 42 United States Code § 4321, *et seq.*, the TWDB has determined that the proposed action identified below may be exempted from formal environmental review requirements:

City of Los Fresnos, Cameron County, Texas
TWDB CWSRF Project No. 73922
Stormwater Planning and Drainage Improvements Project
Whipple Road and Valle Alto Drainage Improvements
Total Funding Amount: \$1,703,704
Commitment Nos. L1001515 and LF1001516

The City of Los Fresnos (City) is proposing to use \$1,703,704 from the CWSRF Program for the proposed Whipple Road and Valle Alto drainage improvements components of the Stormwater Planning and Drainage Improvements Project in Cameron County, Texas. The proposed Stormwater Planning and Drainage Improvements Project includes (1) the Whipple Road drainage and swale improvements, (2) the Valle Alto drainage improvements, and (3) the Resaca Escondida drainage improvements, which are located within the City limits where flooding constantly occurs during large rainfall events.

This Categorical Exclusion is for the proposed Whipple Road and Valle Alto drainage improvements, hereafter referred to as the proposed project. The proposed Resaca Escondida drainage improvements project, which necessitates further regulatory agency coordination and therefore requires a full environmental review, will subsequently be covered by a separate environmental finding.

The proposed Whipple Road improvements include (1) regrading approximately 8,500 linear feet (LF) of roadside ditches along the north and south sides of Whipple Road, from

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Leading the state's efforts in ensuring a secure water future for Texas	Brooke T. Paup, Chairwoman George B. Peyton V, Board Member L'Oreal Stepney, P.E., Board Member Bryan McMath, Interim Executive Administrator

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Samuel Street eastward to the Union Pacific railroad tracks, to an approximate depth of 3 to 5 feet; (2) excavating approximately 850 LF of new swale adjacent to the existing swale, beginning approximately 400 feet east of Evergreen Street and extending south of Whipple Road towards Valle Alto Drive; (3) replacing, by open trenching, approximately ten 18-inch reinforced concrete pipes (RCP) (totaling approximately 360 LF) with 18- and 24-inch RCP, removing two 18-inch RCPs, and installing three new 24-inch RCPs for the proposed swale improvements; and (4) repairing roads and driveways associated with the RCP construction. The proposed Valle Alto improvements, which extend from the drainage ditch located south of Valle Alto Drive to W Ocean Boulevard, include (1) potentially acquiring an easement from Bayview Irrigation District No. 11, approximately 15 to 30 feet wide by 1,450 feet long, along the west side of the existing irrigation ditch to widen the existing drainage ditch to add flow capacity; (2) widening and regrading the drainage ditch to approximately 1,500 feet long by 15 feet wide by 5 to 10 feet deep; and (3) dredging the detention pond, maintained by Cameron County Drainage District No. 1, at the northeast extent of the drainage ditch to approximately 460 feet long by 80 feet wide by 10 to 15 feet deep. The proposed project will involve excavation and open trenching in existing street rights-of-way and drainage ditches and adjacent to existing drainage ditches.

There are no creek crossings or Special Flood Hazard Areas in the proposed project area. Environmental impacts will be similar to drainage ditch improvement and expansion in and adjacent to existing facilities. There are no previously recorded significant or potentially significant historical or cultural sites within or adjacent to the proposed project footprint, according to the Texas Historical Commission's Archeological Sites Atlas, nor is the proposed project within a protected area surrounding a historic cemetery, structure, or district. The proposed project will not impact waters of the United States, including wetlands. The proposed project is not located within the 100-year floodplain; therefore, coordination with the local floodplain administrator was not required. In addition, the proposed project is not expected to impact threatened or endangered species or habitat.

The TWDB may not fund testing, remediation, removal, disposal, or related works for contaminated or potentially contaminated materials. However, the project proponent should ensure that, if found, such materials are tested, removed, and disposed of in accordance with applicable state and federal laws.

To ensure that there will be no adverse environmental impacts associated with the construction, the City coordinated with the Texas Parks and Wildlife Department (TPWD), Wildlife Habitat Assessment Program (WHAB). In a letter dated August 24, 2023 (TPWD Project No. 51115), the TPWD provided five general construction recommendations and beneficial management practices (BMPs) to assist the City in avoiding and/or minimizing

potential impacts to fish and wildlife resources as well as the following recommendations to ensure the proposed project is constructed in compliance with the Migratory Bird Treaty Act (MBTA) and Texas Parks and Wildlife Code.

Federal Regulations: Migratory Bird Treaty Act

TPWD Recommendation: The TPWD recommends scheduling any vegetation clearing or trampling to occur outside of the March 15 through September 15 migratory bird nesting season to comply with the MBTA and avoid adverse impacts to birds. If vegetation clearing must be scheduled to occur during the nesting season, the TPWD recommends the vegetation to be impacted should be surveyed for active nests by a qualified biologist. Nest surveys should be conducted no more than five days prior to the scheduled clearing to ensure recently constructed nests are identified. If active nests are observed during surveys, the TPWD recommends a 100-foot radius buffer of vegetation remain around nests until eggs have hatched and the young have fledged; however, the size of the buffer zone is dependent on various factors and can be coordinated with the local or regional United States Fish and Wildlife Service office.

City Response: Necessary vegetation clearing or soil excavation within project areas will be scheduled to occur outside of the March 15 through September 15 migratory bird nesting season. If vegetation clearing must be scheduled to occur during the nesting season, a migratory bird survey of the vegetation to be impacted will be conducted by a qualified biologist prior to any work commencing. Nest surveys will be conducted no more than five days prior to the scheduled clearing to ensure recently constructed nests are identified. If active nests are observed during surveys, a 100-foot radius buffer of vegetation will remain around nests until eggs have hatched and the young have fledged.

State Regulations: Parks and Wildlife Code, Section 64 Birds

TPWD Recommendation: The TPWD recommends that the City review the MBTA recommendations as apply to Chapter 64 of Texas Parks and Wildlife Code.

City Response: See the response above.

State Regulations: Aquatic Resources

TPWD Recommendation: To minimize disturbance to aquatic habitats and to minimize impacts to aquatic life, the project proponent should only allow personnel and equipment to enter these areas when essential to the work being done. Only vegetation impeding

construction should be removed, equipment should not be driven over vegetation when it is wet, and heavy machinery should not be stored on vegetative cover for long periods of time. Protective mats should be utilized within wetland and riparian areas during construction to reduce the amount of soil and root disturbance and to aid in the recovery of plants.

City Response: Only essential personnel and equipment will be allowed to enter aquatic habitats when work being done. Only vegetation impeding construction will be removed, equipment will not be driven over vegetation when it is wet, and heavy machinery will not be stored on vegetative cover for long periods of time. Protective mats will be utilized within wetland and riparian areas during construction to reduce the amount of soil and root disturbance and to aid in the recovery of plants.

TPWD Recommendation: Erosion and sedimentation control materials should adhere to the guidelines presented in the General Construction Recommendations and should be properly installed and maintained.

City Response: See the response above.

State Regulations: Park and Wildlife Code, Section 68.015

The state-listed (threatened) black-spotted newt (*Notophthalmus meridionalis*) and south Texas siren (large form) (*Siren* sp. 1) have the potential to occur within the study area if suitable habitat is available. Potential impacts may be avoided and/or minimized by incorporating the recommended BMP.

Both the black-spotted newt and south Texas siren occur in wet areas including ditches, canals, arroyos, resacas, or shallow depressions. The drainage ditch in which the drainage improvements would occur may provide suitable habitat for these species.

TPWD Recommendation: Contractors should be made aware of the potential to encounter or affect state-listed amphibians in the project area and should be instructed to implement BMPs to avoid negatively impacting them if present in the project area. Within the drainage channel, the TPWD recommends limiting the extent of excavation to the minimum necessary to achieve the desired improvement in drainage or detention. Near water bodies, the TPWD recommends limiting impacts to adjacent vegetation, installing erosion control BMPs, and locating staging areas and fuels or other hazardous chemicals away from water bodies to avoid potential spills or leaks into adjacent aquatic areas.

TPWD Recommendation: The Contractor will be made aware of potential encounter or the potential to affect state-listed amphibians in the project area and will be instructed to implement best management practices to avoid negatively impacting them if present in the project area.

State Regulations: Species of Greatest Conservation Need

TPWD Recommendation: The TPWD recommends the use of BMPs to minimize impacts on mussels and fish species, which may serve as the mussels' larval host. For soil disturbance adjacent to waterways, water quality BMPs, such as silt fences and soil stabilization measures, should be implemented along the banks to avoid increasing the turbidity of the water. If mussel populations are present within the limits of the proposed project area, those populations should be protected from sedimentation and disturbance to the greatest extent possible. Relocation may be necessary, depending on the level of disturbance required by project work. Please contact the local Kills and Spills Team (KAST) biologist prior to initiating construction activities for more information. Additionally, please refer to the Aquatic Resources section of the TPWD response letter.

City Response: See the response above for disturbance mitigation measures. Coordination with the local KAST biologist will occur prior to construction activities.

There are no previously recorded significant or potentially significant historical or cultural sites within or adjacent to the project footprint, according to the Texas Historical Commission's Archeological Sites Atlas, nor is the proposed project within a protected area surrounding a historic cemetery, structure, or district. The proposed project will not adversely impact waters of the United States, including wetlands. The proposed project is not located within the 100-year floodplain; therefore, coordination with the local floodplain administrator was not required. In addition, the proposed project is not expected to impact threatened or endangered species or habitat.

The TWDB recommended issuance of a Categorical Exclusion for this project. The decision to grant a Categorical Exclusion is allowed because the specified project elements will not cause significant adverse impacts to the quality of the human environment or protected natural resources. Documentation supporting this determination is on file at the TWDB.

This determination shall be revoked if it is found that

- (1) the project no longer meets the requirements for categorical exclusion from comprehensive environmental review as a result of changes in the project;

- (2) the project involves extraordinary circumstances as described in 31 TAC § 375.62; or
- (3) the project may violate or has violated federal, state, local, or tribal laws.

The proposed project must comply with the following special and standard environmental conditions:

Special Environmental Conditions

- In accordance with an agreement with the Texas Parks and Wildlife Department (TPWD), Wildlife Habitat Assessment Program (TPWD Project No. 51115), to ensure compliance with Texas Parks and Wildlife Code, the Endangered Species Act of 1973, as amended, the Migratory Bird Treaty Act, and applicable federal regulations pertaining to protected and invasive species, the following measures will be implemented to protect the following state-listed (threatened) amphibian species, which have the potential to occur within the project area, if suitable habitat is available: black-spotted newt (*Notophthalmus meridionalis*) and south Texas siren (large form) (*Siren* sp. 1):
 - Necessary vegetation clearing or soil excavation within project areas will be scheduled to occur outside of the March 15 through September 15 migratory bird nesting season. If vegetation clearing must be scheduled to occur during the nesting season, a migratory bird survey of the vegetation to be impacted will be conducted by a qualified biologist prior to any work commencing. Nest surveys will be conducted no more than five days prior to the scheduled clearing to ensure recently constructed nests are identified. If active nests are observed during surveys, a 100-foot radius buffer of vegetation will remain around nests until eggs have hatched and the young have fledged.
 - The Contractor will be made aware of the potential to encounter or affect state-listed amphibians in the project area and will be instructed to implement best management practices to avoid negatively impacting them if present in the project area.
 - Within drainage channels, the extent of excavation will be limited to the minimum necessary to achieve the desired improvement in drainage or detention.
 - Near water bodies, impacts to adjacent vegetation will be limited and erosion control best management practices will be installed.
 - Staging areas, fuels, and other hazardous chemicals will be located away from water bodies to avoid potential spills and leaks into adjacent aquatic areas.

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- Coordination with the local Texas Parks and Wildlife Department Kills and Spills Team biologist will occur prior to construction activities.
- Sediment control fencing is proposed to be installed around the entire construction area and will be removed after construction activities have been completed and disturbed areas have been stabilized.
- The Contractor will be required to perform inspections of all sediment control fencing every 7 calendar days and within 12 hours after a weather event resulting in precipitation of a 1/2-inch or greater.
- The Contractor will be encouraged to examine the inside of exclusion areas daily to determine if any wildlife species have been trapped inside the area of impact.
- Prior to the initiation of construction, the Contractor will provide safe egress opportunities.
- Trenches will not be left open or unsecured; trenches will be covered, and appropriate and adequate barricades will be placed to prevent access into the trench area.
- Hydromulch and hydroseeding will be used for soil stabilization and revegetation of disturbed areas, if needed.

Standard Environmental Conditions

- No activity which may affect properties listed or properties eligible for listing in the National Register of Historic Places or eligible for designation as a State Archeological Landmark is authorized until the City has complied with the provisions of the National Historic Preservation Act and the Antiquities Code of Texas.

If archeological sites or historic structures which may qualify for designation as a State Archeological Landmark according to the criteria in 13 Texas Administrative Code Chapter 26, or that may be eligible for listing on the National Register of Historic Places in accordance with 36 Code of Federal Regulations Part 800, are discovered after construction operations are begun, the Contractor shall immediately cease operations in that particular area and notify the City, the TWDB, and the Texas Antiquities Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711-2276. The Contractor shall take reasonable steps to protect and preserve the discoveries until they have been inspected by the City's representative and the TWDB. The City will promptly coordinate with the State Historic Preservation Officer and any other appropriate agencies to obtain any necessary

approvals or permits to enable the work to continue. The Contractor shall not resume work in the area of the discovery until authorized to do so by the City.

- No activity is authorized that is likely to jeopardize the continued existence of a threatened or endangered species as listed or proposed for listing under the Federal Endangered Species Act (ESA), and/or the State of Texas Parks and Wildlife Code on Endangered Species, or to destroy or adversely modify the habitat of such species.

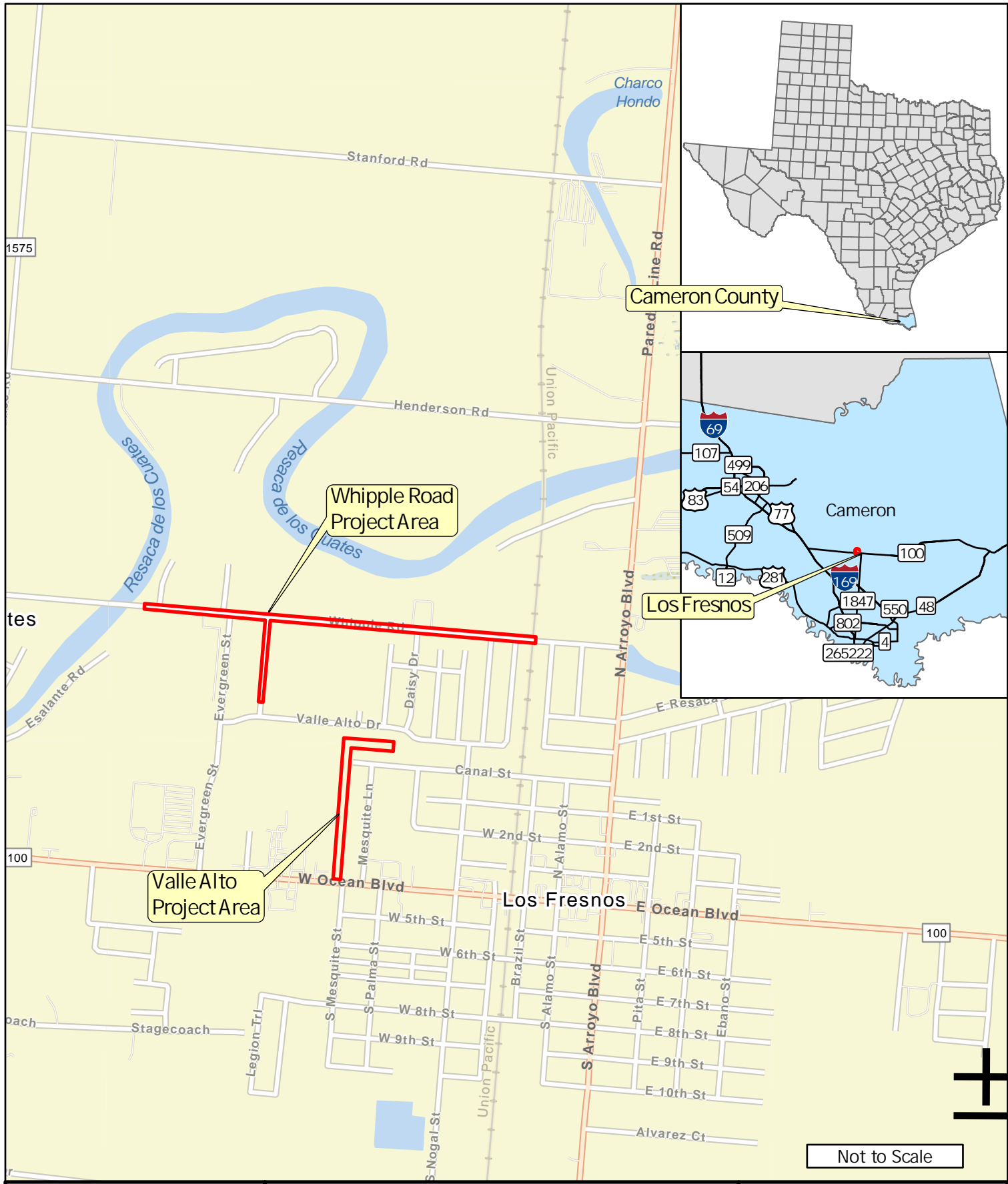
If a threatened or endangered species is encountered during construction, the Contractor shall immediately cease work in the area of the encounter and notify the City, who will immediately implement actions in accordance with the ESA and applicable State statutes. These actions shall include reporting the encounter to the TWDB, the United States Fish and Wildlife Service, and the Texas Parks and Wildlife Department, obtaining any necessary approvals or permits to enable the work to continue, or implement other mitigation actions. The Contractor shall not resume construction in the area of the encounter until authorized to do so by the City.

Comments regarding this determination may be submitted to the Director of Regional Water Project Development, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231 or via email at rwpd-environmental@twdb.texas.gov.

Sincerely,

T. Clay Schultz, Ph.D., Director
Regional Water Project Development

Enclosure



HANSON
Hanson Professional Services Inc.

Project Location Map
 Whipple Road and Valle Alto
 Drainage Improvements
 Los Fresnos, Cameron County, Texas
 Created: 11/29/2023

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COMMUNITY WITH OPPORTUNITY



Source: USGS Top View <https://ngmdb.usgs.gov/topoview/>



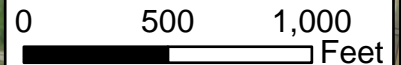
USGS Topo Map (Los Fresnos, TX Quad)
 Whipple Road and Valle Alto
 Drainage Improvements
 Los Fresnos, Cameron County, Texas
 Created: 11/29/2023





Source: FEMA National Flood Hazard Layer (<https://hazards.fema.gov/qgis/#/fresno-services/public/NEH/MapServer>)

- Project Areas
- Structures
- 1% Annual Chance Flood Hazard



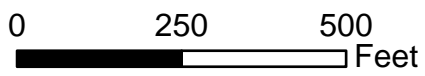
FEMA Floodplain Map
Whipple Road and Valle Alto
Drainage Improvements
Los Fresnos, Cameron County, Texas

Created: 11/29/2023





- Project Areas
- Structure Removals
- Structure Replacements
- New Structures



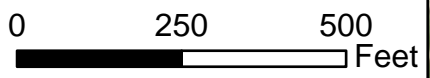
Aerial Imagery (2022)
 Whipple Road and Valle Alto
 Drainage Improvements
 Los Fresnos, Cameron County, Texas
 Created: 11/29/2023

Source: ESRI World Imagery (https://services.arcgis.com/ArcGIS/arcgis/rest/services/World_Imagery/MapServer)



Source: ESRI World Imagery (https://services.arcgis.com/ArcGIS/arcgis/rest/services/World_Imagery/MapServer)


- Project Areas
- Structure Replacements



Aerial Imagery (2022)
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 Drainage Improvements
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Source: ESRI World Imagery (https://services.arcgis.com/ArcGIS/arcgis/rest/services/World_Imagery/MapServer)

 Project Areas

0 250 500 Feet



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