

EXHIBIT 1

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

STATE OF CALIFORNIA, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

SIERRA CLUB, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

No. 4:19-cv-00872-HSG

No. 4:19-cv-00892-HSG

DECLARATION OF LOREN FLOSSMAN

I, Loren Flossman, declare as follows:

1. I am the Acquisition Program Manager for the Wall Program Management Office (Wall PMO), U.S. Border Patrol Program Management Directorate, U.S. Customs and Border Protection (CBP), an agency of the Department of Homeland Security (DHS). The Wall PMO is responsible for border barrier projects.
2. The statements in this declaration are based on my personal knowledge and information that I have received in my official capacity.

3. CBP has previously executed declarations dated April 1, 2019, May 14, 2019, July 11, 2019, and October 3, 2019, that explained CBP's use of Treasury Forfeiture Fund (TFF) funds for barrier construction activity along the southern border. This declaration provides updated information about CBP's use of TFF funds.
4. As explained in the October 3 declaration, on September 27, 2019, the Department of the Treasury transferred to a CBP account \$600,993,368.26 to support CBP's law enforcement border security mission. Prior to the transfer of TFF funds, CBP submitted one claim to TFF for reimbursement of expenses. On September 4, 2019, CBP submitted a request for reimbursement of \$6631.74 for CBP program management and support costs associated with planning potential TFF funded projects. CBP received reimbursement for these funds on September 12, 2019.
5. As explained in the prior CBP declarations, CBP had planned to utilize the TFF funds for planning and construction exclusively within Texas, in the United States Border Patrol Rio Grande Valley (the Rio Grande Valley Sector) and/or the United States Border Patrol Laredo Sector (the Laredo Sector). At the time of the previous declarations, however, no final decisions had been made as to the final barrier location for any project funded by the TFF in the Rio Grande Valley and/or Laredo Sectors and no TFF funds had been obligated to specific border barrier projects in these Sectors.
6. CBP recently made decisions as to how it will allocate the approximately \$601 million of TFF funds to support CBP's border security law enforcement mission.
7. CBP will use \$340 million of the TFF funds for border barrier projects in the Rio Grande Valley Sector as follows:

- a. \$124 million of the \$340 million will be used to construct border barriers in the Rio Grande Valley Sector. On December 27, 2019, CBP, through the United States Army Corps of Engineers, exercised contract options for the barrier projects known as RGV 09 and RGV 10. The RGV 09 and RGV 10 projects had previously been funded exclusively with funds appropriated in the Fiscal Year 2019 CBP appropriation (Public Law No. 116-6, § 230). Regarding the RGV 09 project, approximately \$11 million in TFF funds were used to fund a contract option that will increase the height of a planned segment of barrier in the Rio Grande Valley Sector in Starr County, Texas, from 18 feet to 30 feet. For the RGV 10 project, approximately \$113 million in TFF funds were used to fund a contract option that will add approximately 10 miles of barrier to the RGV 10 project. These additional miles are located in the Rio Grande Valley Sector in Hidalgo County and Cameron County, Texas. The locations of the RGV 09 and RGV 10 projects, including the areas with project costs associated with the contract options discussed above, are depicted in the attached Exhibit A. Construction on the RGV 09 and RGV 10 projects, including the portions of those projects funded with TFF funds, will begin once CBP has acquired sufficient real estate. CBP does not anticipate that it will have sufficient real estate prior to July 2020.
- b. \$216 million of the \$340 million in TFF funds that will be used in the Rio Grande Valley Sector will be used for program and project activities such as construction management, change management, i.e., covering increased project costs due to unforeseen site conditions and other contingencies, and real estate planning and

acquisition for planned or on-going border barrier projects in the Rio Grande Valley Sector that are funded by one of three sources, CBP's Fiscal Year 2018 appropriation (Public Law No. 115-141, § 230), CBP's Fiscal Year 2019 appropriation (Public Law No. 116-6, § 230), and, as noted above, TFF funds.

8. As noted above, the prior CBP declarations stated that CBP had planned to utilize the TFF funds for planning and construction exclusively within Texas, in the Rio Grande Valley and/or Laredo Sectors. CBP has now decided to expand the use of TFF funds for planning beyond the Rio Grande Valley and Laredo Sectors.
9. In particular, CBP intends to use the remaining balance of approximately \$261 million in TFF funds for real estate planning activities for future year barrier construction in the United States Border Patrol's priority locations along the southwest border. Real estate planning activities involves, among other things, planning for future barrier alignments, title research, surveys, and appraisals. If there is surplus funding that is not needed for real estate planning activities, CBP would allocate any remaining TFF funds to other activities in support of CBP's law enforcement border security mission.
10. The decision to expand the use of the TFF funds for planning beyond the Rio Grande Valley and Laredo Sectors was the result of CBP having received funding in its Fiscal Year 2020 appropriation (Public Law 116-93, § 209) that will fund its highest priority locations in the Laredo Sector. Because CBP has now received funding for its highest priority locations in the Laredo Sector, \$340 million in TFF funds may be used for priority projects in the Rio Grande Valley Sector, and the remaining balance of the TFF funds may be used to plan for future year barrier requirements. Future year planning will allow CBP to streamline the execution of such projects and more quickly deliver the

capabilities required for the United States Border Patrol to deter and prevent illegal entry on the southwest border.

This declaration is made pursuant to 28 U.S.C. § 1746. I declare under penalty of perjury that the foregoing is true and correct to the best of my current knowledge.

Executed on this 8th day of January, 2020.

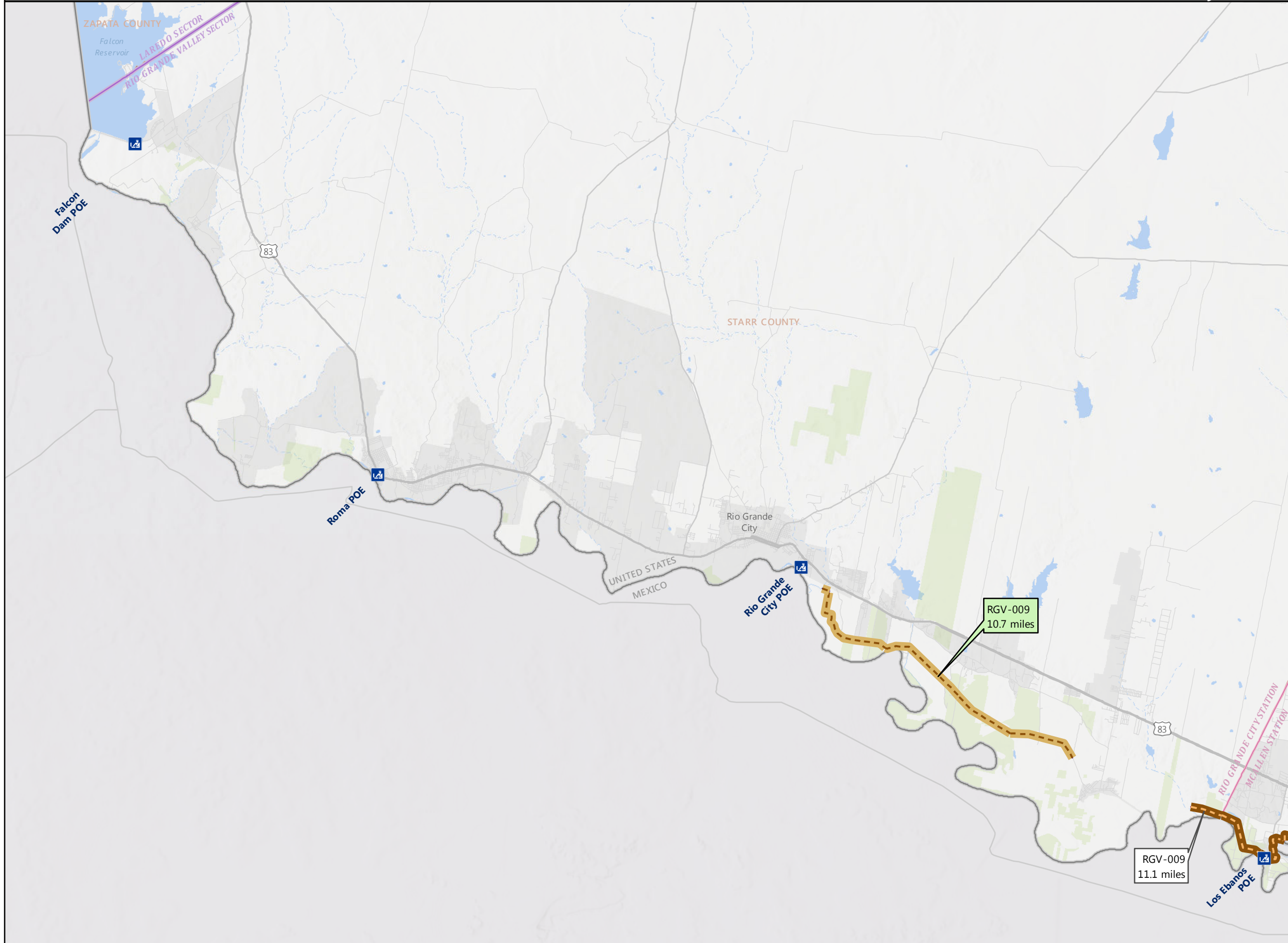
Loren Flossman

Loren Flossman
Acquisition Program Manager
U.S. Customs and Border Protection


EXHIBIT A

Exhibit A

Rio Grande City Station



LEGEND

 RGV-009, TFF Funds used to increase barrier height from 18' to 30'

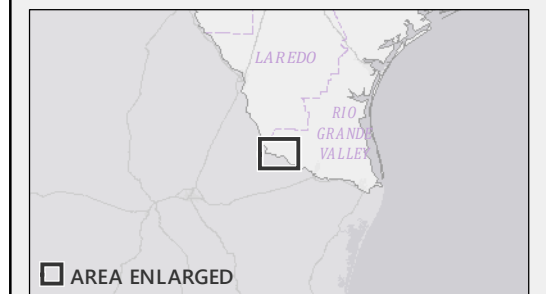
FY19 CBP Funded Barrier

 RGV-009

**If sheet measures less than 11x17" it is a reduced print.
Reduce scale accordingly.*

1 in = 3.16 mi

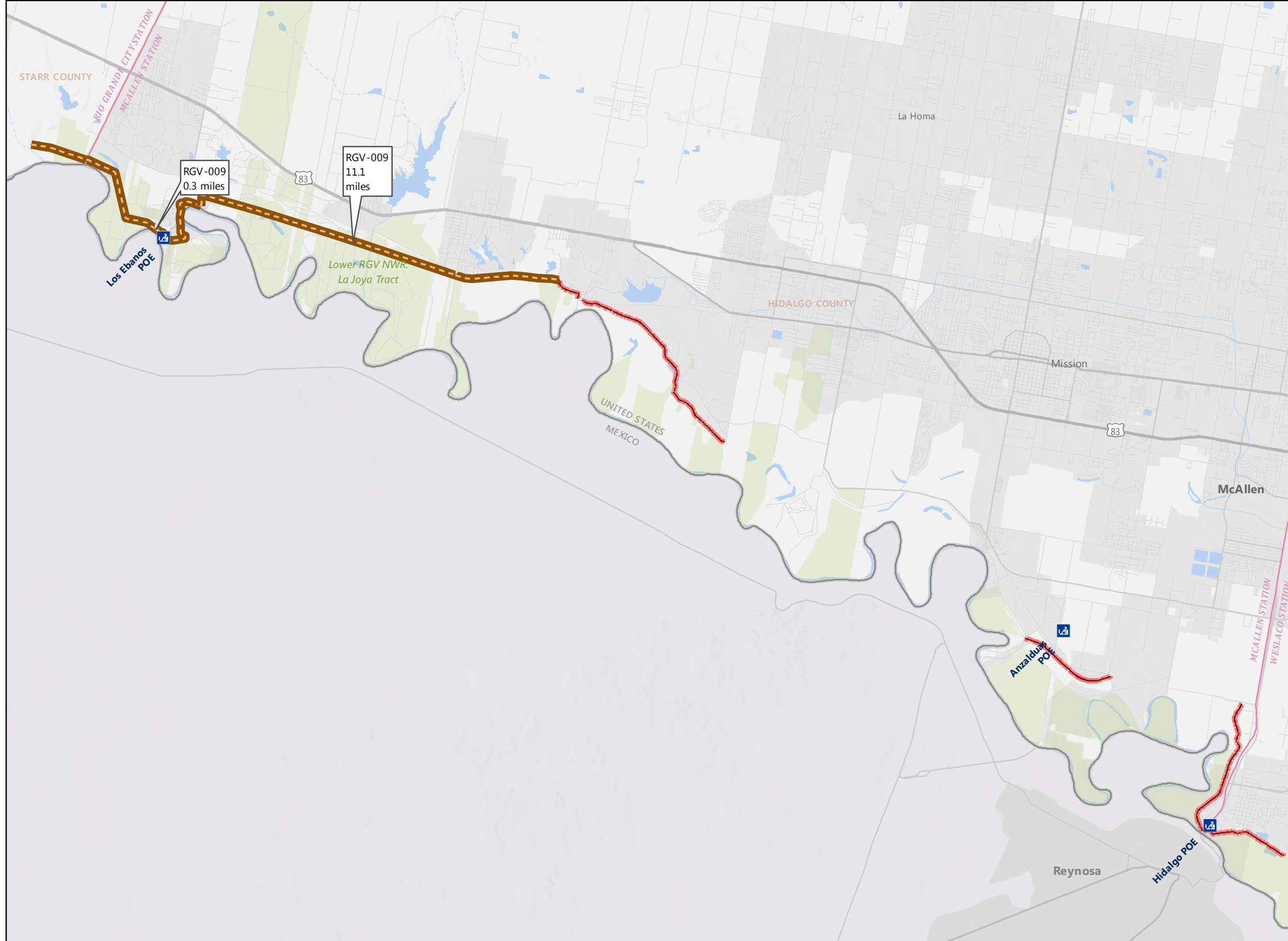
1:200,000



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Exhibit A

McAllen Station



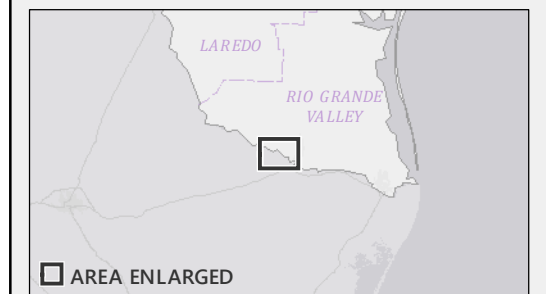
LEGEND

- Existing Pedestrian Fence
- FY19 CBP Funded Barrier**
- RGV-009

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1 in = 1.74 mi

1:110,000

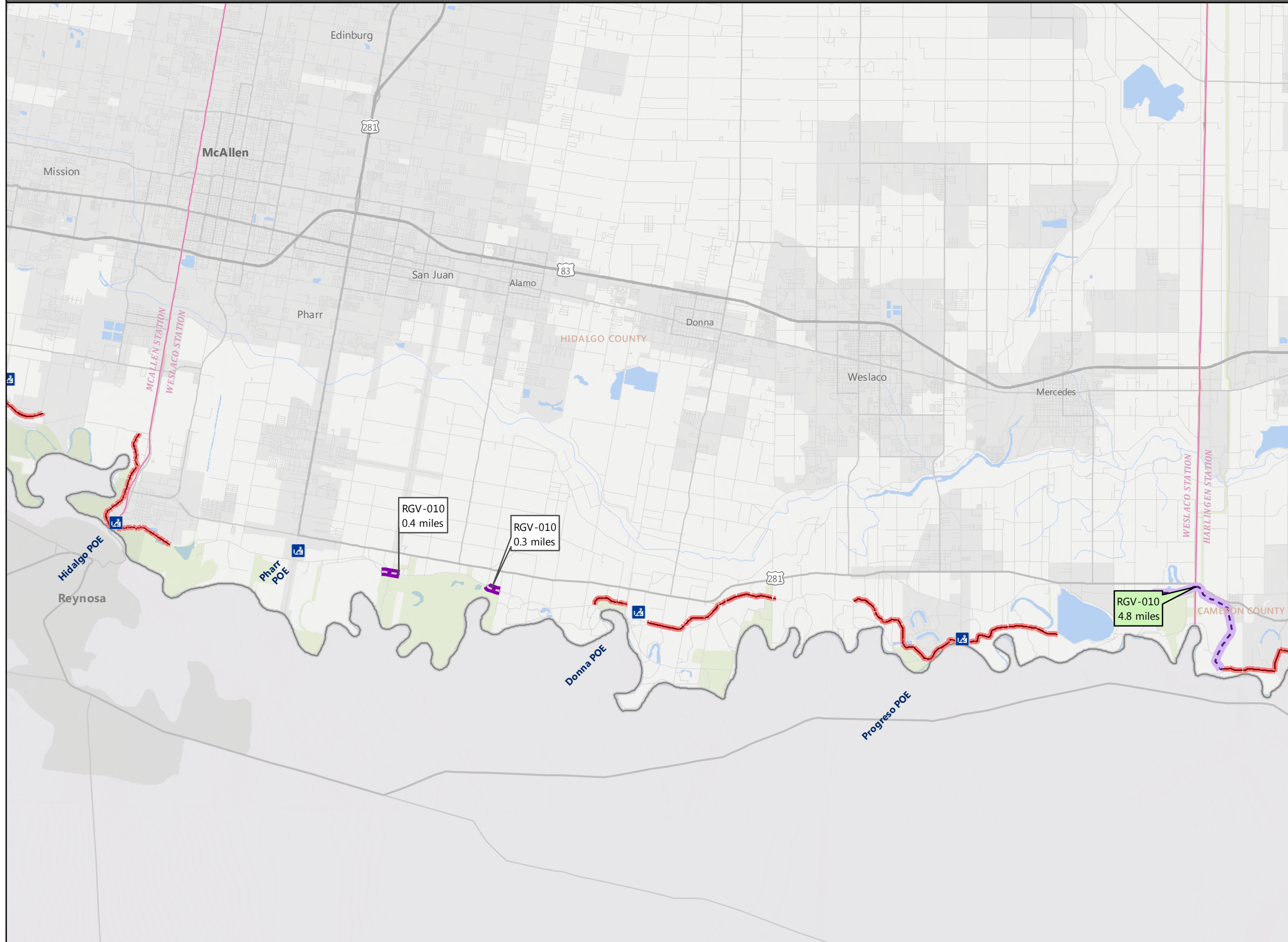


AREA ENLARGED




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Exhibit A

Weslaco Station



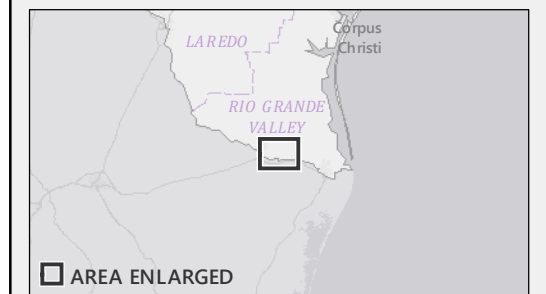
LEGEND

-  Existing Pedestrian Fence
-  RGV-010, TFF Funds used to add barrier miles
- FY19 CBP Funded Barrier**
-  RGV-010

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Reduce scale accordingly.*

1 in = 2.37 mi

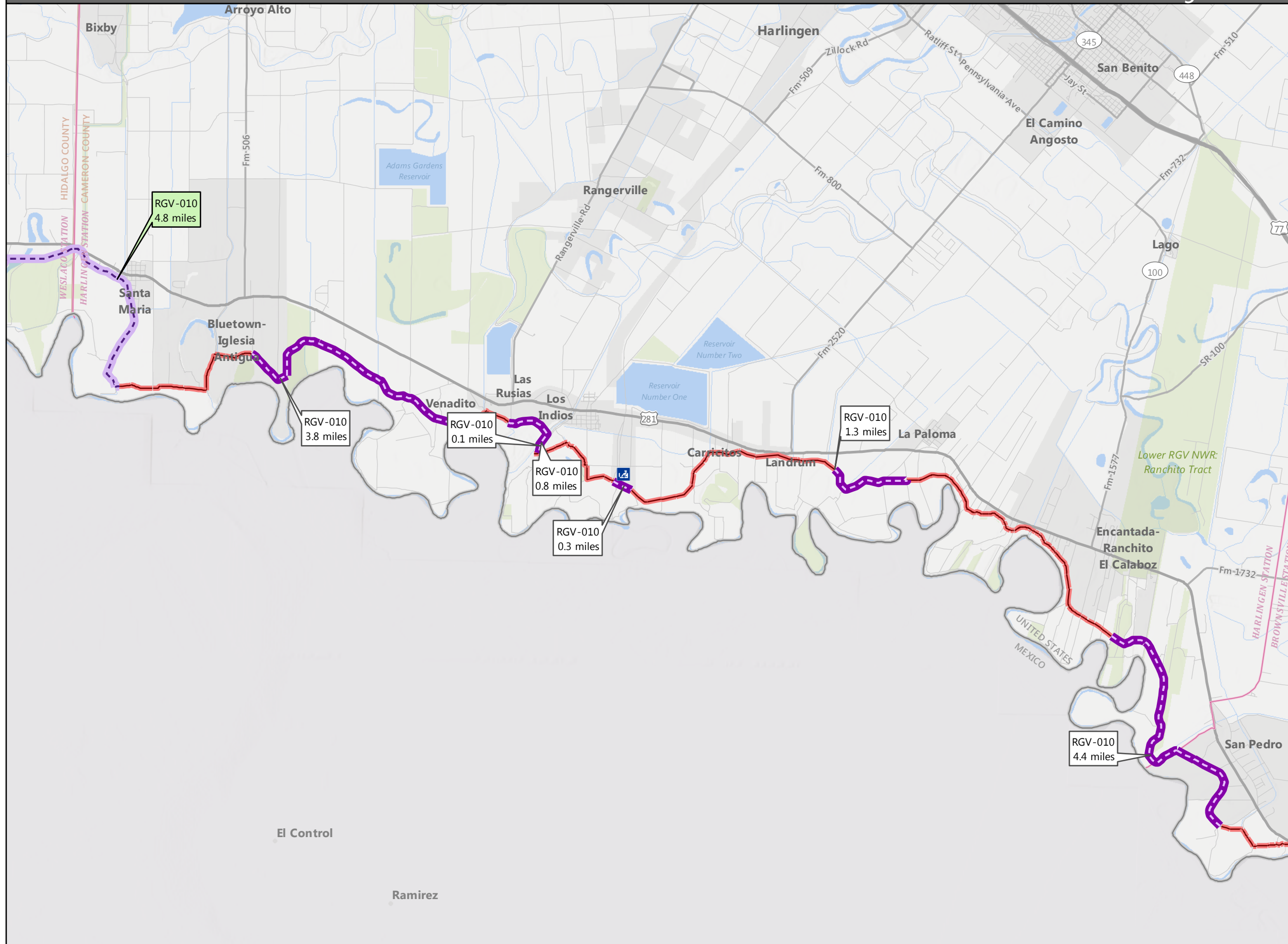
1:150,000






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Exhibit A

Harlingen Station

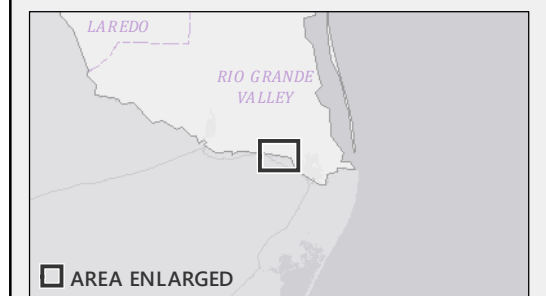


LEGEND

-  Existing Pedestrian Fence
-  RGV-010, TFF Funds used to add barrier miles
- FY19 CBP Funded Barrier**
-  RGV-010

**If sheet measures less than 11x17" it is a reduced print.
Reduce scale accordingly.*

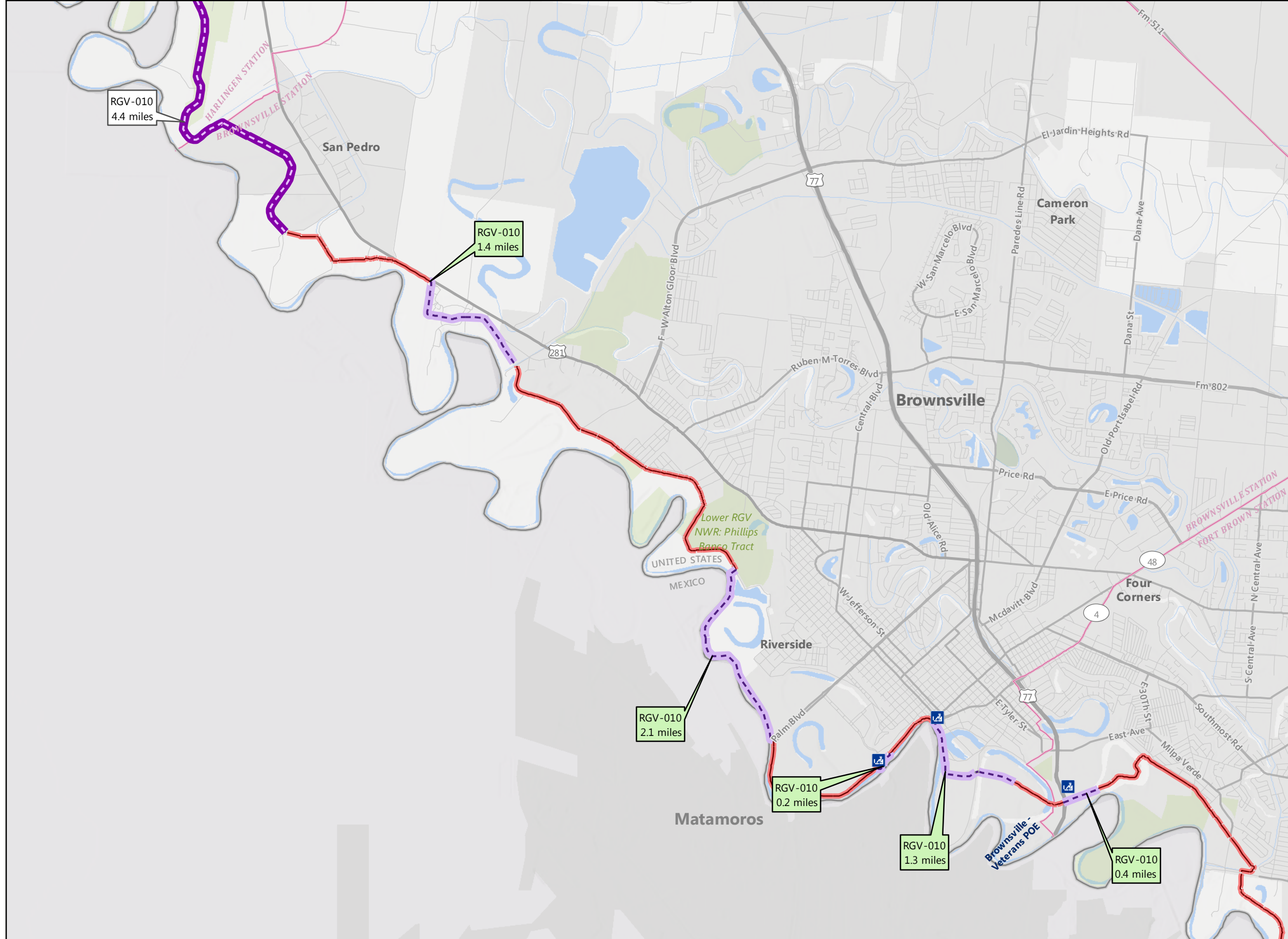
1 in = 1.42 mi 1:90,000






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Exhibit A

Brownsville Station



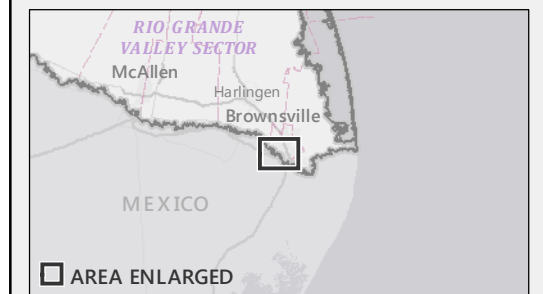
LEGEND

-  Existing Pedestrian Fence
-  RGV-010, TFF Funds used to add barrier miles
- FY19 CBP Funded Barrier**
-  RGV-010

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1 in = 0.98 mi

1:62,360



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