



Contract Number

SAP Number

Real Estate Services Department

Department Contract Representative	Terry W. Thompson, Director, Real Estate Services Department
Telephone Number	(909) 387-5252
Contractor	United States of America- Department of the Interior – Bureau of Land Management
Contractor Representative	Birgit Hoover, Realty Specialist
Telephone Number	(760) 252-6035
Contract Term	1/1/2022 – 12/31/2051
Original Contract Amount	\$0.00
Amendment Amount	
Total Contract Amount	\$0.00
Cost Center	1200304020
GRC/PROJ/JOB No.	54004096
Internal Order No.	

Briefly describe the general nature of the contract:

This Right-of-Way Grant/Temporary Use Permit is for a term of 30 years, for the use of Federal land approximately 3' x 5' for the installation and operation of a diesel backup generator at the Sandy Communication Site near Yermo. License fees due from the County under this permit are waived under current United States Department of the Interior-Bureau of Land Management policy.

FOR COUNTY USE ONLY

Approved as to Legal Form

► Please see signature page.

Agnes Cheng, Deputy County Counsel

Date _____

Reviewed for Contract Compliance

►

Date _____

Reviewed/Approved by Department

►

Lyle Ballard, Real Property Manager, RESD

Date _____

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

Issuing Office
Barstow Field Office

Serial Number
CACA 059208

1. A (right-of-way) (permit) is hereby granted pursuant to:

- a. ☒ Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
- b. ☐ Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
- c. ☐ Other (describe) _____

2. Nature of Interest:

- a. By this instrument, the holder County of San Bernardino receives a right to construct, operate, maintain, and terminate a backup generator on public lands (or Federal land for MLA Rights-of-Way) described as follows:

T. 12 N., R. 4 E., SBM
Sec. 27: SE1/4NW1/4.

- b. The right-of-way or permit area granted herein is 3 feet wide, 5 feet long and contains 0.0003 acres, more or less. If a site type facility, the facility contains N/A acres.
- c. This instrument shall terminate on December 31, 2051, 30 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument ☒ may ☐ may not be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 180 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A and B, dated 04/21/2020, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

(Signature of Holder)

(Signature of Authorized Officer)

(Title)

Field Manager

(Title)

(Date)

(Effective Date of Grant)

COUNTY OF SAN BERNARDINO

Curt Hagman, Chairman
Board of Supervisors

Date: _____

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

Lynna Monell, Clerk of the Board of
Supervisors

By: _____
Deputy

Date: _____

Approved as to Legal Form:

MICHELLE D. BLAKEMORE, County Counsel
San Bernardino County, California

By: _____
Agnes Cheng, Deputy County Counsel

Date: _____

CACA 059208 - San Bernardino County



Exhibit A

San Bernardino County
Generator - New ROW
Fremont-Kramer ACEC
10 March 2021

0.00025 0.005 0.0075 0.01
Miles



Exhibit B
 March 10, 2021
 San Bernardino County – Sandy Mountain Area
 Backup Generator

The Bureau of Land Management (BLM) Authorized Officer for the administration of this grant is the Field Manager, Barstow Field Office, 2601 Barstow Road, Barstow, CA, 92311, Phone (760)252-6000.

The grantee shall comply with all stipulations contained in this grant, unless otherwise approved in writing by the Authorized Officer. Non-compliance with any of the stipulations by the grantee or by any of their agents may result in the cancellation or suspension of the grant or adverse action against the holder.

The BLM retains the right to occupy and use the right-of-way (ROW) and to issue or grant right-of-ways or, other land uses, upon, over, under, and through the lands, provided that the occupancy and use will not reasonably interfere with the right granted herein.

This authorization applies to public lands managed by the BLM only.

1. The holder shall post as directed by the Authorized Officer, the Bureau serial number (CACA 059208) assigned to this facility at the following location(s): visibly on the exterior of the generator structure. The minimum sign size is at least 18" x 18" with a background and at least 6" size black lettering, along with holder identification information and emergency contact telephone number.
2. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the Authorized Officer. Appropriate Department of Transportation (DOT) approved safety signs may be posted to warn the general public or emergency personnel.
3. All trash and food items shall be promptly contained within closed, raven-proof containers. These shall be regularly removed from the project site to reduce the attractiveness of the area to ravens and other tortoise predators. No dogs or firearms are allowed on site.
4. Access to the site must remain the same egress/ingress via the route as outlined in map.
5. The holder must amend the ROW grant at any time additional land, equipment, and/or new uses are proposed which are beyond the scope of the existing authorization.
6. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the lessee's activity on the communication site). This agreement applies

without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

7. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on their behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation discovery will be made by the Authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and the Authorized Officer will make any decision as to proper mitigation measures after consulting with the holder.

If during excavation any subsurface artifacts are discovered, all work shall stop within 100 feet of the area and BLM Barstow Field Office Archaeologist shall be notified immediately at (760)252-2600. Work shall not proceed in the area until the BLM issues a Notice to Proceed (NTP)

8. Protocol for Discovery of Human Remains in California
All discovered human remains shall be treated with respect and dignity. California state law (California Health & Safety Code 7050.5) and federal law and regulations ([Archaeological Resources Protection Act (ARPA) 16 USC 470 & 43 CFR 7], [Native American Graves Protection & Repatriation Act (NAGPRA) 25 USC 3001 & 43 CFR 10] and [Public Lands, Interior 43 CFR 8365.1-7]) require a defined protocol if human remains are discovered in the state of California regardless if the remains are modern or archaeological.

Upon discovery of human remains, all work within a minimum of 200 feet of the remains must cease immediately, nothing disturbed, and the area is to be secured. The County Coroner's Office of the county where the remains were located must be called. The Coroner has two working days to examine the remains after notification. The appropriate land manager/owner or the site shall also be called and informed of the discovery. If the remains are located on federal lands, federal land managers/federal law enforcement/federal archaeologist are to be informed as well because of complementary jurisdiction issues. It is very important that the suspected remains and the area around the remain undisturbed and the proper authorities called to the scene as soon as possible as it could be a crime scene. Disturbing human remains is against federal and state laws and there are criminal/civil penalties including fines and/or time in jail up to several years. In addition, all vehicles and equipment used in the commission of the crime may be forfeited. The Coroner will determine if the bones are historic/archaeological or a modern legal case.

Modern Remains

If the Coroner's Office determines the remains are of modern origin, the appropriate law enforcement officials will be called by the Coroner and conduct the required procedures. Work will not resume until law enforcement has released the area.

Archaeological Remains

If the remains are determined to be archaeological in origin and there is no legal question, the protocol changes depending on whether the discovery site is located on federally or non-federally owned/managed lands.

Remains discovered on federally owned/managed lands

After the Coroner has determined the remains are archaeological or historic and there is no legal question, the appropriate Field Office Archaeologist must be called. The archaeologist will initiate the proper procedures under ARPA and/or NAGPRA. If the remains can be determined to be Native American, the steps as outlined in NAGPRA, 43 CFR 10.6 *Inadvertent discoveries*, must be followed.

Remains discovered on non-Federally owned/managed lands

After the Coroner has determined the remains on non-federally owned/managed lands are archaeological and there is no legal question, the Coroner will make recommendations concerning the treatment and disposition of the remains to the person responsible for the excavation, or to his or her authorized representative. If the Coroner believes the remains to be those of a Native American, he/she shall contact by telephone within 24 hours, the California Native American Heritage Commission (NAHC). The NAHC will immediately notify the person it believes to be the most likely descendent of the remains. The most likely descendent has 48 hours to make recommendations to the land owner for treatment or disposition of the human remains. If the descendent does not make recommendations within 48 hours, the land owner shall reinter the remains in an area of the property secure from further disturbance. If the land owner does not accept the descendant's recommendations, the owner or the descendent may request mediation by the NAHC.

Resumption of activity. The activity that resulted in the discovery of human remains may resume at any time that a written, binding agreement is executed between the BLM, lineal descendants, and/or the federally recognized affiliated Indian Tribe(s) that adopts a recovery plan for the excavation or removal of the human remains, funerary objects, sacred objects, or objects of cultural patrimony following 43 CFR §10.3 (b)(1) of these regulations. The disposition of all human remains and NAGPRA items shall be carried out following 43 CFR §10.6.

9. The holder shall construct, operate, and maintain the facilities, improvements, and structure within this right-of-way in a strict confirmatory with the maps(s) which were approved and made part of the grant. Any relocation, additional construction, or use that is not in accord with the approved map(s) shall not be initiated without the prior written approval of the Authorized Officer. A copy of the complete right-of-way grant,

including all stipulation and approved map(s) shall be made available on the right-of-way area during construction, operation, and termination to the Authorized Officer. Non-compliance with the above will be ground for immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment.

10. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation station, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the Authorized Officer and the respective installing authority if known. Where General Land office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using the surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the Authorized Officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
11. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four inches deep, the soil shall be deemed too wet to adequately support construction equipment.
12. The United States will not be held liable for any damage to facilities caused by the general public or as result of fire, wind, or other natural disasters or as a result of communications practices, or other actions stemming from the normal land management activities of the Bureau of Land Management.
13. The holder shall hold harmless the United States against any liability for damages to life, person, or property arising from the use or maintenance of this right-of-way.
14. All electric facilities, equipment, and their installation shall conform to the current National Electrical Safety Code and applicable laws and all regulations.
15. The right-of-way shall terminate sixty (60) days after expiration or cancellation of the Federal Communications Commission license or Interdepartmental Radio Advisory Committee radio frequency assignment unless renewal is obtained within this period and a copy of such renewal is furnished to the Authorized Officer.
16. Ninety (90) days prior to termination or relinquishment of the right-of-way, the holder shall contact the Authorized Officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The Authorized Officer must approve the plan in writing prior to the holder's commencement of any termination activities.

17. The holder must secure written permission or rights across private lands with the property owners.
18. All activities must comply with Federal, State, County and other laws, regulations and ordinances which are applicable to the premises.
19. In the event that the public lands underlying right-of-way (ROW) encompassed in the grant or portion thereof, is conveyed out of Federal ownership and administration of the ROW, or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, portion thereof within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2800]; including any rights to have the holder apply to BLM amendments, modifications, or assignments and for the BLM to approve or recognize such amendments, modifications, or assignments. At the time of the conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between patentee/ grantee and the ROW holder.
20. Upon completion of construction activities and installation of equipment, but prior to turning on equipment except for test purposes, holder shall submit to the BLM authorized officer a statement certifying that the improvements authorized by this amendment are constructed and operated according to Motorola R56 Standards (latest edition). Such statement shall be signed by an individual certified to conduct R56 inspections and shall accompanied by the individual's certification.

The Holder acknowledges by signing below, that he/she knows, understands, and accepts the supplemental stipulations under which this grant is issued.

X

Company Representative

X

Date