



April 6, 2018

Hon. Joseph Palacios
Hidalgo County Commissioner Pct. 4
1051 N Doolittle Rd.
Edinburg, Texas 78542

RE: County: Hidalgo
TxDOT CSJ No.
FM 2220 – Ware Rd.
Parcel No. 88



Dear Commissioner:

Attached herewith is a counter-offer as submitted by Jeff Richter, owner (power of attorney) of Parcel 88 on March 30, 2018. L & G Engineering has reviewed the aforementioned and hereby recommends that counteroffer **be approved**. Also attached is the N-9, Administrative Settlement Evaluation and Approval Form. Therefore, please schedule an appointment with the District Evaluation Team to discuss the counteroffer, if needed.

L & G Engineering believes the counteroffer is a valuation issue, legal and cost savings issue and also the timing issue for the construction of the project. And more importantly due to recent court awards on similar projects and the cost to litigate through the Special Commissioners' Hearing we recommend that the counteroffer of **\$34,000.00** be accepted.

Due to a formal request by the property owners to the appraiser, I did not submit the counteroffer till today's date but the property owners did submit the counteroffer within the allotted time frame.

Please review these documents and feel free to contact me at (956) 585-1909 if you wish to discuss this matter personally.

Sincerely,

Fernando Herrera Jr.
Right of Way Administrator

Attachments: As noted.
cc: File



ADMINISTRATIVE SETTLEMENT EVALUATION AND APPROVAL FORM

ROW CSJ: 2094-01-044

County: Hidalgo

Highway: FM 2220 Ware Rd.

Project Limits: Mile 5 to FM 1924

Parcel No.: 88

Owner's Name: Aleah S. Richter

Approved Offer: \$21,662.00

Date Offer Sent: 2/15/2018

Owner's Counteroffer: \$34,000.00

Date Counteroffer Received: 3/30/18

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
- b. Other: Factors brought up by the property owners that will hurt the property.

2. Legal Issues

- a. Analysis of recent court awards on similar properties or projects.
- b. Analysis of recent court decisions which may affect the outcome of a condemnation action.
- c. Analysis of previously unlitigated issues.
- d. Other: _____

3. Cost Savings

- a. Approximate cost to litigate through Special Commissioners' Hearing \$12,000
- b. Approximate additional cost to litigate through jury trial \$15,000
- c. Other: _____

4. Timing Issues

- a. Maintain project schedule: 6/2018
 Possession of this property is needed by: asap
 Projected possession date, if settled is: 5/2018
 Projected possession date, if condemned is: 10/2018
 Letting date: 6/2018
- b. Other: _____

5. Other Issues

** The following documents have been considered by this team and are incorporated by reference: appraisals, appraisal review form, owner's counteroffer and supporting documentation, negotiator's logs, and _____

Analysis and Conclusion

Our approval / disapproval recommendation is based on the items checked above and has been evaluated as follows: (attach additional sheets as necessary)

We feel that the issues brought up by the property owner as far as the damages the purchase will have on the property are valid and play well with the special commissioners. The special commissioners are usually more than willing to accept the arguments of the property owners. Also we believe that the cost of condemnation will be equal or greater to the amount paid for the parcel. Finally the time factor involved with the acquisition is very important. Therefore we feel that the counteroffer is well within a range of values for this type of parcel and for the project and moreover feel that since the project will be let for construction in the coming months the value of \$34,000.00 is acceptable when considering all the following: factor the range of values, the special commissioners' awards lately usually go in favor of the property owner and also the project will be "let" for construction very quickly. Therefore we recommend the counteroffer for approval.

This administrative settlement of \$34,000.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

Evaluation Date: _____

Team Members: _____

Right of Way Manager
_____ Region

Date

30Mar2018

L&G Engineering
Ref Hidalgo County Highway Project Ware Rd
Parcel 88

Fred,

Please accept this counter offer in good faith.

After looking over the original offer and looking at land values, we find that your original offer is undervalued. We really think that the total offer should be about \$47,000 in rough numbers. We do want to get along and not stonewall the project, so therefore the following counteroffer is submitted to you.

Land to be sold 10,331 sqft	\$24000.00
Damage to value of remainder 30463 sqft.	\$10000.00

Total.	\$34,000.00
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Thank you for your consideration of this matter.

Jeff Richter poa Aleah Sue Richter

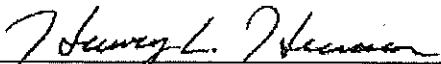
APPRAISAL REVIEW SUBMISSION
FOR

Parcel No. 88 Update
RCSJ: 2094-01-044
Hwy: FM 2220-WareRoad
County: Hidalgo

CONSISTING OF:

- *Form ROW-A-10-Separate*
- *Appraisal Review Form-USPAP*
- *Assumptions and Limiting Conditions-USPAP*
- *Certification-USPAP*

PREPARED BY:


Harvey L. Heerssen
Tx. State Certified General Appraiser
No. TX-1327190-G

12-11-17
Effective Date of Review

12-11-17
Date of Review Report

TABULATION OF VALUES

Parcel: 88 Update Highway: FM 2220/Ware Rd. ROW CSJ: 2094-01-044
 Taking Type: Partial District: Pharr
 Size of Remainder: 0.6993 Acres County: Hidalgo
 Type of Property: Vacant/Zoned SFR Federal Project: N/A
 Contract Fencing: N/A
 Appraised by: Leonel Garza III
 Date Appraised: 10-30-17

Access will be provided or denied to the new facility. If access will be partially provided or denied, explain in comments.

Agency	Participating Percentage	Expense Description
Hidalgo County	1.70%	ROW Acquisition Expenses

Interest Owner	Acquisition Interest	Land Area	Value	Lease (Y/N)
Aleah S. Richter	Fee Simple	0.2372 Acres/ 10,331 s.f.	\$20,662.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$20,662.00	\$1,000.00	\$0.00	\$0.00	\$21,662.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Landscaping	Palm Tree	\$1,000.00	\$1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		Total	\$1,000.00		

TABULATION OF VALUES (continued)

Parcel: 88 Update

Highway: FM 2220/Ware Rd.

ROW CSJ: 2094-01-044

III. Damages and Enhancements

Total Non-Exempt Damages	Enhancements	Exempt Damages	Net Damages
\$0.00	\$0.00	\$0.00	\$0.00

IV. Sign Values

Item No.	Sign Owner	Type Construction	Improvement Value	Retention Value	Bisect. Cat.
N/A	N/A	N/A	N/A	N/A	N/A
Total			\$0.00	\$0.00	

V. Recapitulation

Date:	10-30-17	7-13-17		Recommended Value
Appraiser's Name:	Leonel Garza III	Leonel Garza III		
Value of Whole Property	\$88,588.00	\$81,588.00		\$88,588.00
Parcel Area: 10,331 s.f.				
VALUE FOR PARCEL				
Land: per s.f. \$2.00	\$20,662.00	\$20,662.00		\$20,662.00
Easement	\$0.00	\$0.00		\$0.00
Improvements	\$1,000.00	\$0.00		\$1,000.00
Net Damages or (Enhancements)	\$0.00	\$0.00		\$0.00
OAS Value(s)	\$0.00	\$0.00		\$0.00
TOTAL COMPENSATION	\$21,662.00	\$20,662.00		\$21,662.00

Calculations for Net Damages or (Enhancements) considers Direct Access Denial damages.

TABULATION OF VALUES (continued)

Parcel: 88 Update

Highway: FM 2220/Ware Rd.

ROW CSJ: 2094-01-044

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: Leonel Garza III
Effective Date of Updated Report: October 30, 2017
Updated Report Dated: December 7, 2017
Review Appraiser: Harvey L. Heerssen
Effective Date of Updated Review: December 11, 2017
TxDOT Review Appraiser: Pedro Escobar
Report Received at TxDOT:

Parcel 88 has been updated to reflect an ownership change and to include overlooked palm trees on the whole property and in the part taken. The new owner is Aleah S. Richter and the updated value now reflects a \$1,000 increase for the palm tree within the acquisition for a total updated value of \$21,662.00

Parcel 88 is a partial taking of 0.2372 acres (10,331 sq. ft.) parcel of land situated in the J. Cerda Survey, Abstract No. 29 in Hidalgo County, Texas and being a part of Lot 80 of the La Lomita Irrigation and Construction Company Subdivision, a subdivision of record in Volume 24 Page 68, Deed Records of Hidalgo County, Texas, being a part of the remainder of a 2.00 acre tract of land described in the deed from M. Kenneth Stout, et ux, to Bill Atchison recorded September 12, 1972 in Volume 1334, Page 367, Deed Records of Hidalgo County, Texas.

This parcel is located on the south side of Lark Avenue, approximately 0.20 mile west of Ware Road. McAllen, Texas. The whole property is a vacant tract, consisting of 0.9365 acres, and is zoned single family residential. The highest and best use is for single family residential use. The whole or part taken is to be utilized for outfall drainage purposes due to the expansion of Ware Road.

The appraiser Leonel Garza III has selected three (3) recent sales to value the whole at \$2.00 per square foot. The part taken is valued as a pro-rata part of the whole unit value. In this update, subject acquisition contains one (1) palm tree that is appraised accordingly. There are no market damages to the remainder land.

The appraiser has considered access damages in accordance with Section 21.042(d) of the Texas Property Code, as amended by SB18 of the Texas 82nd Regular Legislative Session. The result of the findings is that there is no denial of direct access nor material impairment of direct access on or off the remaining property that affects the market value of the remaining property. Therefore, there are no access damages to the remainder property.

The updated report prepared by the appraiser Leonel Garza III is an Appraisal Report presented on TxDOT form ROW-A-5 and appears to comply with USPAP and the Texas Department of Transportation's Appraisal and Review Manual. The appraisers' updated opinion and conclusions appear to be well supported by information contained within this updated appraisal report. It is recommended that the total updated value of \$21,662.00 be approved for continued negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

A retention of \$1.00 is applied to the palm tree on this parcel to encourage retention.

TABULATION OF VALUES (continued)

Parcel: 88 Update

Highway: FM 2220/Ware Rd.

ROW CSJ: 2094-01-044

VIII. Conditions

Values for signs, if any, are applicable only if sign owner has compensable interest.

Fencing is applicable only to actual cost or lump sum fencing on 90-10 Right of Way projects and State cost participation in fences to be in accordance with State's Right of Way Manual.

The values indicated hereon have been approved on the basis that all improvements within the taking will be acquired in the name of the State through negotiation.

IX. Reviewing Appraisers' Statements

Reviewing Appraiser's Statement

It is my opinion that the appraiser's report for this parcel appears adequately supported and in compliance with all appropriate appraisal standards, laws, and regulations, and I recommend this appraisal for use by the appropriate Agency Official and his/her assigns. I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of the parcel. To the best of my knowledge, the value does not include any items that are not compensable under State law.

Reviewing Appraiser

Date

Henry L. Newman
Contract Reviewing Appraiser (if applicable)

12-11-17

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

Ramon Garcia
County/City Representative

2/01/18
Date

[Signature]
ROW Staff Representative

1-31-18
Date

APPROVED BY
COMMISSIONER OF THE COURT
1/30/18 [Signature]

APRAISAL REVIEW FORM USPAP REQUIREMENTS
FM 2220-WARE ROAD-RCSJ 2094-01-044
PARCEL NO. 88 UPDATE

REVIEWER'S CLIENT: L & G Engineers, Inc.

INTENDED USERS OF APPRAISAL REVIEW: L & G Engineers, TxDOT, and others authorized in the acquisition process.

INTENDED USE OF APPRAISAL REVIEW OPINIONS AND CONCLUSIONS: Quality Control and Confirmation

PURPOSE OF THE REVIEW ASSIGNMENT: (1) To evaluate compliance with USPAP, (2) To develop and communicate a conclusion of the quality of the fee appraiser's work, (3) To determine if the results of the work under review were credible for the intended user's intended use. The review assignment does not include the development of the reviewer's own opinion of value or review opinion related to the work under review. The review assignment does include the reviewer to recommend a value for approval and negotiations. In accordance with the Uniform Appraisal Standards for Federal Land Acquisitions, Section C-4. "An Opinion of Value Expressed by a Review Appraiser." "The review appraiser may accept, approve, recommend approval, or disapprove an appraisal report based upon compliance with these Standards and the appropriateness of the methods and analyses employed in the appraisal report. Such acceptance, approval, recommendation, or disapproval does not constitute an opinion of value on the part of the review appraiser, nor does it infer that the reviewing appraiser has taken ownership of, or is responsible for, the value opinion expressed in the appraisal report under review."

JURISDICTIONAL EXCEPTION: An assignment condition established by applicable law or regulation which precludes an appraiser from complying with a part of USPAP. This appraisal review has been completed in accordance with TxDOT standards, rules, regulations and policies. Therefore, if any part or portion of this appraisal review that precludes compliance to USPAP due to any specific standard, rule, regulation, or policy of the client or intended users, then the JURISDICTIONAL EXCEPTION RULE is invoked.

SCOPE OF THE APPRAISAL REVIEW - The Scope of Work for this appraisal review is to develop an opinion as to the completeness, accuracy, relevance, and reasonableness of the work under review, and that the appraisal report is appropriate and is in compliance with USPAP. The work under review is the updated appraisal report prepared by Mr, Leonel Garza III, that has an effective date of 10-30-17 and a report date of 12-7-17. The effective date of the updated appraisal review is 12-11-17 and the date of the appraisal review report is 12-11-17. The scope of work also includes the following:

- Technical compliance with the local agency standards
- Personal inspect the entire project and each parcel from the road right of way.
- Check and review appraisal report for USPAP Compliance.
- Check and review appraisal report to determine quality of appraiser's work.
- Check report for mathematical calculations, approaches to value and accuracy of all statements.
- Check for consistency of value and appraisal methodology from parcel to parcel.
- Prepare appraisal review submission for Client that includes recommending a value for negotiations.
- Submit appraisal review report to Client electronically.

CONCLUSION: The updated appraisal report has been prepared based on recognized appraisal principles and standards, and thus conforms to the Uniform Standards of Professional Appraisal Practice (USPAP). The appraiser has presented good comparable sales that support the updated appraised value for this property. The appraiser's work is satisfactory and the analyses, opinions and conclusions in the updated appraisal report under review are appropriate and reasonable. Based on the updated appraisal report and all supporting data, I approve the updated final value conclusion and recommend that the updated appraisal be released for continuing negotiations and acquisition.

ASSUMPTIONS AND LIMITING CONDITIONS

Client: L & G Engineers, Inc.
RCSJ: 2094-01-044
Parcel No. 88 Update

This appraisal review is made subject to the following:

The legal description as provided by the client is assumed to be correct.

The information furnished by others is believed to be reliable, but no warranty is given for its accuracy. The right of way map and all other relevant data furnished by the client are assumed to be correct.

It is assumed that the property reviewed is unencumbered by adverse easements.

The property is reviewed as though free and clear from all liens and encumbrances in fee simple interest to the surface rights only.

No personal property including appliances not fixed to the realty, furnishing, vehicles, trade fixtures, or intangible items are included in the appraisal review.

Any allocation of the total value estimated in this review report between the land and improvements applies only to this parcel under review. The separate values allocated to the land and improvements must not be used in conjunction with any other appraisal report of another parcel and are invalid if so used.

The existence of potentially hazardous material and or toxic waste that may or may not be present on the property was not observed by the review appraiser. However, the review appraiser is not an expert on such matters and is not qualified to detect such substances, and no responsibility is assumed for any hazardous conditions, nor for any expertise required to discover them. The value conclusion of the appraisal review is based on the assumption that no significant environmental problems exist that would adversely affect the value or marketability of the subject property.

The professional competency of the review appraiser should not be presumed to include the knowledge or experience of a professional surveyor, architect, engineer, title lawyer or other specialist.

The appraiser was furnished comparable sale data and other data from sources considered reliable and the review appraiser assumes that all data furnished the appraiser is reliable and accurate but the reviewer does not assume responsibility for the accuracy of all items furnished by other parties.

The client is reminded that market value changes as the market changes with time. The value contained in this review report is as of the retrospective effective date of the appraisal review report. Any passage of time may render the value inaccurate and unsuitable.

The submission of the appraisal review does not include the requirement of publication, court testimony or court appearance. Special arrangements will have to be made for this purpose, including fees and time frames.

I do not authorize the out-of-context quoting from or partial reprinting of the appraisal review report. Further, neither all nor any part of the contents of this appraisal review shall be disseminated to the public through advertising media, public relations media, news media, sales media or any public means or communications without the prior written consent and approval of the undersigned.

The liability of the review appraisal is limited to the client and intended users only and does not extend to any third parties or to users not specifically designated or authorized. The total liability of the review appraiser is limited to the amount of the fee received by the review appraiser for the report.

CERTIFICATION

RCSJ: 2094-01-044- PARCEL 88 UPDATE
FM 2220-WARE ROAD PROJECT

I certify that to the best of my knowledge and belief:

The statements of fact contained in this review report are true and correct.

The reported analyses, opinions, and conclusions in this review report are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of the work under review and no personal interest with respect to the parties involved with this assignment.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of the work under review within the three (3) year period immediately preceding acceptance of this assignment.

I have no bias with respect to the property that is the subject of the work under review or to the parties involved with this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

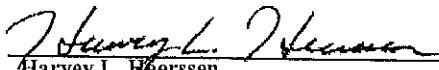
My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in this review or from its use.

My compensation for completing this assignment is not contingent upon the development or reporting of predetermined assignment results or assignment results that favors the cause of the client, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal review.

My analysis, opinions and conclusions were developed and this review report was prepared in conformity with the *Uniform Standards of Professional Appraisal Practice*.

I have made a field inspection of parcel 88 from the road right of way on March 28, 2017.

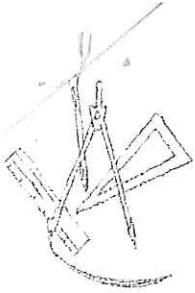
No one provided significant appraisal, appraisal review, or appraisal consulting assistance to the person signing this certification.



Harvey L. Heerssen
Texas State Certified General
Real Estate Appraiser, TX-1327190-G

12-11-17

Date



L&G Engineering

Transportation Consultants

Date: February 15, 2018

County: Hidalgo
Federal Project No.: N/A
Highway: FM 2220/Ware Rd.

ROW CSJ: 2094-01-044
Parcel: 88
From: 0.23 Mi. North of Auburn Avenue (5Mile Road)
To: FM 1924 (Buddy Owens Blvd.)

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED NO. 7014/200 0002 0046 1295

Aleah S. Richter
6217 North Ware Road
McAllen, Texas 78504

Dear Ms. Richter:

In acquiring property for the highway system of Texas, the Texas Department of Transportation (the "Department") and Hidalgo County (the "County") follow a definite procedure for appraising the land needed and for handling personal negotiations with each owner. As has been or will be explained by the County's negotiator, Robert Garcia, a portion of your property located on FM 2220/Ware Rd, as described in the enclosed property description, is to be acquired for the construction or improvement of the above-referenced highway project.

We believe at this stage of the purchase process it is mutually beneficial to confirm that, based on an appraisal, the County is authorized to offer you **\$21,662.00** for your property, which includes **\$21,662.00** for the property to be purchased and **\$0.00** for damages to your remaining property. This amount is the total amount of just compensation for all interests in the portion of your property to be acquired, as determined in accordance with State law, less oil, gas and sulphur, subject to clear title being conveyed to the County. In accordance with State law, it is the policy of the Department/County to negotiate with the fee owner(s) of the real property with the understanding that you will, in turn, negotiate with any lessee or other party who may own any interest in the land or improvements, with the exception of public utility easements, which will be handled separately by the Department/County.

This offer to purchase includes the contributory values of the improvement(s) listed below, which are considered to be part of the real property. Since the improvement(s) must be removed, it is the policy of the Department/County to permit owners who convey voluntarily to the State to thereafter retain the improvement(s), if they wish to do so. The retention values shown below are the estimated amounts the improvement(s) would bring if sold on public bids. If you wish to retain title to any of the following improvement(s) and remove it (them) from the right of way, the amount of the above offer must be reduced by the appropriate retention amount(s). This option to retain the improvement(s) does NOT apply should it become necessary for the County to acquire the real property by eminent domain.

<u>Improvement</u>	<u>Amount to be Subtracted if Retained</u>
A. Landscaping-Palm Trees	\$1.00

If you wish to accept the offer based upon this appraisal, please contact me as soon as possible at (956) 585-1909, so that the process of issuing your payment may be started. If you are not willing to accept this offer, you may submit a written request for administrative settlement/counteroffer, setting forth a counteroffer amount and the basis for such amount, provided such settlement request is received in writing within 30 days from the date of this letter. *Please note that your opportunity to submit an administrative settlement shall be forfeited if such a settlement request is not received by the Department /County within the 30 day time deadline.* In the event the condition of the property changes for any reason, the County shall have the right to withdraw or modify this offer.



After the date of payment of the purchase price, or the date of deposit in court of funds to satisfy the award of compensation as determined through eminent domain proceedings to acquire real property, you will be reimbursed for any fair and reasonable incidental expenses necessarily incurred in transferring title to the property for use by the Texas Department of Transportation/Hidalgo County. Expenses eligible for reimbursement may include (1) recording fees, transfer taxes and similar expenses incidental to conveying the real property to the County and (2) penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property. Voluntary unnecessary expenses or expenses incurred in clearing questionable title will not be eligible for reimbursement. Eligible incidental expenses will be reimbursed upon submission of a claim supported by receipted bills or other evidence of actual expenses incurred. You may file a written request for review if you believe that the Department/County failed to properly determine the eligibility for, or the amount of, incidental expenses to be reimbursed. There is no standard form on which to request a review of a claim; however, the claim must be filed with this office within six months after you are notified of the Department's/County's determination on any claim for reimbursement.

You may be entitled to additional payments and services under the State's Relocation Assistance Program. It is emphasized, however, that any benefits to which you may be entitled under this program will be handled entirely separate from and in addition to this transaction. You will receive a brochure entitled "*Relocation Assistance*" which will inform you of eligibility requirements, payments and services which are available.

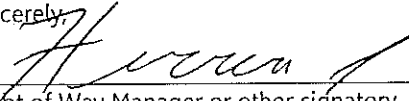
You have the right to discuss with others any offer or agreement regarding the Department's/County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records Act) as it may apply.

Attached is a copy of the Texas Department of Transportation brochure entitled "*Right of Way Purchase*" which we trust will give you a better understanding of the procedures followed by the Department/County in purchasing property. We respectfully request the opportunity to meet with you or to otherwise discuss and answer any questions you may have regarding the details of the type of facility to be built, or concerning the County's offer or proposed purchase transaction. Also, please do not hesitate to contact Ms. Rodriguez at the telephone number provided above regarding any question you may have.

Please see the enclosed copy of the Texas Landowner Bill of Rights.

Finally, we enclose copies of all appraisal reports relating to your property being acquired which were prepared in the ten (10) years preceding the date of this offer and produced or acquired by the State/County, including the appraisal on which this offer is based.

Sincerely,



Right of Way Manager or other signatory

ENCLOSURES:
Appraisal Report(s)
Landowner Bill of Rights
Brochure ("*Right of Way Purchase*")