

June 4, 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. 87

Dear Commissioner:

Attached herewith is a counter-offer as submitted by J. Oscar Barrera Sr. et al, owners of Parcel 87 on October 11, 2017. 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.

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 **\$15,797.00** be accepted.

A counteroffer of \$17,716.00 was originally submitted but the amount of \$15,797.00 was accepted by the property owner and the HCDD #1.

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:**

**Highway:** FM 2220 Ware Rd.

**Parcel No.:** 87

**Owner's Name:** J. Osacr Barrera Sr., et al

**Approved Offer:** \$12,152.00

**Owner's Counteroffer:** \$15,797.00

**County:** Hidalgo

**Project Limits:** Mile 5 to FM 1924

**Date Offer Sent:** 9/14/17

**Date Counteroffer Received:** 10/11/2017

**Factors considered in evaluation:**

1. Valuation Issues

- a.  Reconciliation of all available appraisals, including Owner's.
- b.  Other: \_\_\_\_\_

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: 6/2018  
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 impotent. The original counteroffer was \$17,316.00 but the property owners accepted \$15,797.00 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 \$15,797.00 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 \$15,797.00  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



Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		Total	\$0.00		

TABULATION OF VALUES (continued)

Parcel: 87

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:	7-7-17			Recommended Value
Appraiser's Name:	Leonel Garza III			
Value of Whole Propert	\$131,986.00			\$131,986.00
Parcel Area: 6,076 s.f.				
VALUE FOR PARCEL				
Land: per s.f. \$2.00	\$12,152.00			\$12,152.00
Easement	\$0.00			\$0.00
Improvements	\$0.00			\$0.00
Net Damages or (Enhancements)	\$0.00			\$0.00
OAS Value(s)	\$0.00			\$0.00
TOTAL COMPENSATION	\$12,152.00			\$12,152.00

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

TABULATION OF VALUES (continued)

Parcel: 87

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 Report: July 7, 2017  
Report Dated: July 26, 2017  
Review Appraiser: Harvey L. Heerssen  
Effective Date of Review: July 28, 2017  
TxDOT Review Appraiser: Pedro Escobar  
Report Received at TxDOT:

Parcel 87 is a partial taking of 0.1395 acres (6,076 sq. ft.) parcel of land situated in the J. Cerda Survey, Abstract No. 29 in Hidalgo County, Texas and being a part of Lot 55 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 1.68 acre tract of land described in the deed from Jose Oscar Barrera to Trustee of the Cobra Trust, recorded February 27, 2001 in Document No. 946774, Deed Records of Hidalgo County, Texas.

This parcel is located on the south side of Auburn Avenue (Mile 5 Road) approximately 0.25 mile west of Ware Road. McAllen, Texas. The whole property is a vacant, interior, irregularly shaped tract, consisting of 1.615 acres, and is zoned single family residential. The highest and best use is for single family residential use. The whole or part taken is 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. Subject acquisition is vacant land, and 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 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' opinion and conclusions appear to be well supported by information contained within this appraisal report. It is recommended that the total value of \$12,152.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

Retentions are not applicable as subject acquisition is vacant land.

TABULATION OF VALUES (continued)

Parcel: 87

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

  
\_\_\_\_\_  
Contract Reviewing Appraiser (if applicable) Date 7-28-17

\_\_\_\_\_  
Division Reviewing Appraiser (if applicable) Date

X. Approval of Values

\_\_\_\_\_  
County/City Representative Date

  
\_\_\_\_\_  
ROW Staff Representative Date 8-28-17



REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: South side of Auburn Avenue, +/-0.25 of a mile west of Ware Road, McAllen, Texas  
 Property Owner: The Cobra Trust  
 Address of Property Owner: 3601 North 10th Street, McAllen, Texas 78501  
 Occupant's Name: Vacant  
 Whole:  Partial:  Acquisition  
 District: 21  
 Parcel: 87  
 ROW CSJ: 2094-01-044  
 Federal Project No: N/A  
 Highway: Farm to Market 2220 County: Hidalgo

Purpose of the Appraisal

The purpose of this appraisal is to estimate the market value of the fee simple title to the real property to be acquired, encumbered by any easements not to be extinguished, less oil, gas and Sulphur. If this acquisition is of less than the whole property, then any special benefits and /or damages to the remainder property must be included in accordance with the laws of Texas.

Market Value

Market value is defined as follows: "Market Value is the price which the property would bring when it is offered for sale by one who desires, but is not obliged to sell, and is bought by one who is under no necessity of buying it, taking into consideration all of the uses to which it is reasonably adaptable and for which it either is or in all reasonable probability will become available within the reasonable future."

Certificate of Appraiser

I hereby certify:

That it is my opinion the total compensation for the acquisition of the herein described property is \$12,152 as of July 7, 2017, based upon my independent appraisal and the exercise of my professional judgment;

That on July 7, 2017 (date)(s), I personally inspected in the field the property herein appraised; that I afforded The Cobra Trust, the property owner or the representative of the property owner, the opportunity to accompany me at the time of the inspection;

That the comparables relied upon in making said appraisal were as represented by the photographs contained in the appraisal report and were inspected on July 25, 2017 (date)(s);

That I have not revealed and will not reveal the findings and results of such appraisal to anyone other than the proper officials of the Texas Department of Transportation, and/or their representatives, or officials of the Federal Highway Administration until authorized by State officials to do so, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified to such findings;

That my compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

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 82<sup>nd</sup> Regular Legislative Session and finds as follows:

1. Is there a denial of direct access of the parcel? No (yes or no)
2. If so, is the denial of direct access material? N/A (yes, no, or not applicable)
3. The lack of any access denial or the material impairment of direct access on or off the remaining property affects the market value of the remaining property in the sum of \$ 0.00.

I certify to the best of my knowledge and belief:

That the statements of fact contained in this report are true and correct;

That the reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions;

That I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved;

That my analyses, opinions and conclusions were developed, and this report has been prepared in conformity with the appropriate State laws, regulations, and policies and procedures applicable to the appraisal of right-of-way for such purposes, and that to the best of my knowledge no portion of the value assigned to such property consists of items which are non-compensable under the established law of said State, and any decrease or increase in the fair market value of subject real property prior to the date of valuation caused by the public improvement for which such property is to be acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to the physical deterioration within the reasonable control of the owner, has been disregarded in estimating the compensation for the property.

Leonel Garza III  
 Appraiser Signature  
 TX 1328375 - G  
 Certification Number

July 26, 2017  
 Date

To the best of my knowledge, the value does not include any items which are not compensable under State law.

*Henry L. Heenan*  
 Reviewing Appraiser  
 7-28-17  
 Date



## Fernando Herrera

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From: Eli Villegas [eli.villegas@hcdd1.org]  
Sent: Thursday, October 19, 2017 9:31 AM  
To: Fernando Herrera  
Cc: Robert Garcia  
Subject: BOD 10-17-17 Counter Offers (Raymondville Drain & Ware Rd Outfalls)  
Attachments: 10-17-17 Counter Offer.pdf

Good Morning Fred,

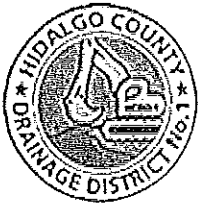
Attached are the approved Counter offers for the Raymondville & Ware Rd Outfall.  
The board has approved us to negotiate up to 30%.

Raymondville Drain: We can meet BLB real Estate bottom line at 8,000 above the appraised value. **\$ 44,260** (*Note: we are able to go up to \$47,138*)

Ware Rd Outfalls: His original counter offer was \$17,316. If you feel we can meet him half way at \$14,734 go ahead and offer him that or offer him our MAX at \$15,797.

If you have any questions please feel free to contact me.

Thank you,



Eli Villegas, C.F.M.  
Right of Way & Utility Coordinator  
Hidalgo County Drainage District No. 1  
902 N. Doolittle  
Edinburg, TX 78542  
Off: (956)292-7080 ext. 5826  
Fax:(956)292-7089  
eli.villegas@hcdd1.org

**EXECUTIVE SESSION**  
**COURT DATE: 10-03-17**

Property Owners:	Parcel/Address of Property:	Appraised Value	Counter Offer	Approved Yes/No
PCT. 4	PARCEL 87, WARE ROAD OUTFALL (-.1395 AC/6076 SF)	\$12,152.00	\$17,316.00	
THE COBRA TRUST	PARCEL 15, RAYMONDVILLE DRAIN (5.46 AC)	\$36,260.00	\$52,640.00	
BLB REAL ESTATES, LTD. (BURNS FAMILY)	<i>NEED MORE TO GO TO</i>	<i>BY ANTI-TRUSTY TO GO UP TO</i>	<i>GO UP TO</i>	
	<i>Council</i>	<i>10/3/17</i>		

October 11, 2017

Fernando Herrera, Jr.

Right of Way Administrator

Re: Purchase of 6,076 sq. ft. being a part of  
Lot 55 LA Lomita Irrigation and Construction Company  
Subdivision, Hidalgo County, Texas

Mr. Herrera:

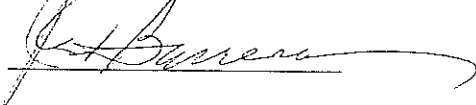
After reviewing your proposal of \$2.00 per sq. ft. for small tract of land, we have decided to counter with a proposal of \$2.85 per sq. ft.. In reviewing the description of the overall tract of land by the appraiser it is described as an irregular tract of land. The sale of this small strip would only add to making this more of an irregular tract, consequently creating more problems for us at the time that we may decide to sell the whole tract.

Hoping this will meet with your approval.

Sincerely,

The Cobra Trust

J. Oscar Barrera, Trustee



J. Oscar Barrera, III

Executor, Estate of J. Oscar Barrera, Jr.



$2.85 \times 6,076 =$   
 $\$17,316.00$   
 $- 12,152.00 \text{ offer}$   
 $\$5,164.00$