



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0921-02-344

Highway: Mile 3 Road

Parcel No.: 38

Owner's Name: Pedro M. Tijerina

Approved Offer: \$7,557.00

Owner's Counteroffer: \$18,000.00

County: Hidalgo

Project Limits: From Goodwin to Tom Gill Road

Date Offer Sent: 8/29/2019

Date Counteroffer Received: 2/20/2019

Factors considered in evaluation:

1. Valuation Issues

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

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 \$12,000.00
- b. Approximate additional cost to litigate through jury trial \$15,000.00
- c. Other: _____

4. Timing Issues

- a. Maintain project schedule: _____
Possession of this property is needed by: _____
Projected possession date, if settled is: _____
Projected possession date, if condemned is: _____
Letting date: _____
- b. Other: Not a Timing Issue

5. Other Issues

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

Parcel 38 is a partial acquisition containing 3,857 square feet or 0.0886 of an acre tract of land situated in Hidalgo County, Texas, and being out of Porcion 48, Hidalgo County, Texas . On 8/29/2018 Acquisition Provider (L&G Engineering) made an offer of \$7,557.00 to purchase the property to Pedro M. Tijerina. On February 20, 2019 Pedro M. Tijerina, submitted a counter offer requesting an additional \$10,443.00 for a total of \$18,000.00. Mr. Tijerina claims he has to build a new service bay area for all his clients in the rear of his property. He has limited use his of service bay in the front because all the tractor trailers that come in for service have difficulty remaining outside of the ROW. Mr. Tijerna approves of the roadway project and agrees it will enhance his business in the future even though he is faced with this difficult issue he is asking for a fair/just compensation. Based on the information provided within the counter offer and discussion by the acquisition team it is recommended that the Administrative Settlement be approved. Also,the cost and length of time associated with a condemnation would far surpass the counter offer.

This administrative settlement of \$ 18,000.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator



Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

TABULATION OF VALUES

Parcel: 38 Highway: Mile 3 Road ROW CSJ: 0921-02-344
 Taking Type: Partial District: Pharr
 Size of Remainder: 5.6515 Acres County: Hidalgo
 Type of Property: Improved/Mixed Use Federal Project: N/A
 Contract Fencing: N/A
 Appraised by: Leonel Garza III
 Date Appraised: 5-24-18

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
Federal Highway Administration	80%	ROW Acquisition Expenses
Hidalgo County	20%	ROW Acquisition Expenses

Interest Owner	Acquisition Interest	Land Area	Value	Lease (Y/N)
Pedro M. Tijerina .	Fee Simple	0.0886 Acres 3,857 sf.	\$3,544.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$3,544.00	\$3,066.00	\$0.00	\$947.00	\$7,557.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Fence	Corrugated Sheet Metal	\$1,828.00	\$1.00	N/A
B.	Fence	Steel Pipe/Wire Mesh	1,013.00	1.00	N/A
C/	Drive	Caliche	225.00	1.00	N/A

TABULATION OF VALUES (continued)

Parcel: 38

Highway: Mile 3 Road

ROW CSJ: 0921-02-344

III. Damages and Enhancements

Total Non-Exempt Damages	Enhancements	Exempt Damages	Net Damages
\$0.00	\$0.00	\$947.00	\$947.00

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:	5-24-18			Recommended Value
Appraiser's Name:	Leonel Garza III			
Value of Whole Property	\$369,676.00			\$369,676.00
Parcel Area: 0.0878 Acres				
VALUE FOR PARCEL				
Land: per \$40,000 Acre	\$3,544.00			\$3,544.00
Easement	\$0.00			\$0.00
Improvements	\$3,066.00			\$3,066.00
Net Damages or (Enhancements)	\$947.00			\$947.00
OAS Value(s)	\$0.00			\$0.00
TOTAL COMPENSATION	\$7,557.00			\$7,557.00

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

TABULATION OF VALUES (continued)

Parcel: 38

Highway: Mile 3 Road

ROW CSJ: 0921-02-344

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: Leonel Garza III
Effective Date of Report: May 24, 2018
Report Dated: August 3, 2018
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: August 10, 2018

Parcel 38 is a partial taking of 0.0886 acres (3,857 sq. ft.) parcel of land out of Porcion 48, Hidalgo County, Texas, and being out of a tract of land conveyed by Special Warranty Deed with Vendor's Lien, dated February 5, 1996, from Alfred William Johnson, to Pedro M. Tijerina, as described in Document No. 502034, of the Official Records, Hidalgo County, Texas.

The whole property is located at the northwest corner of Mile 3 Road and Brushline Road in Hidalgo County, Texas. The whole property consists of 5.74 acres and is a mixed use of commercial and residential containing both types of improvements. Site improvements of fencing and caliche drives within the acquisition are valued accordingly.

The appraiser Leonel Garza III has selected three (3) recent sales similar to the subject in highest and best use and location to value the whole property at \$40,000 per acre. The part taken is properly valued as a pro-rata part of the whole. There are no market damages to the remainder land. Cost to cure is necessary to compensate for the fencing that was depreciated within the acquisition in order to replace the fencing on the remainder to retain the same utility.

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 value of 7,557.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

A retention of \$1.00 is applied to the chain link fencing and caliche drives to encourage retention and removal.

TABULATION OF VALUES (continued)

Parcel: 38

Highway: Mile 3 Road

ROW CSJ: 0921-02-344

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.

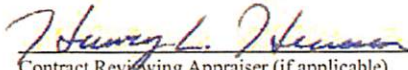
IX. Reviewing Appraisers' Statements

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)

8-17-18

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values



County/City Representative

8-23-18

Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS' COURT
ON: 7/3/18 

REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: 4309 North Brushline Road, Mission, Texas District: Pharr
 Property Owner: Pedro M Tijerina Parcel: 38
 Address of Property Owner: 4309 North Brushline Road, Mission, Texas 78574 ROW CSJ: 0921-02-344
 Occupant's Name: Pedro M Tijerina Federal Project No: N/A
 Whole: Partial: Acquisition Highway: 3 Mile Road 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 \$7,557 as of May 24, 2018, based upon my independent appraisal and the exercise of my professional judgment;

That on May 24, 2018, I personally inspected in the field the property herein appraised; that I afforded Pedro M Tijerina, 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 15, 2018 (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 82nd 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 analysis, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analysis, 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 analysis, 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.

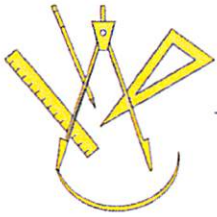
Leonel Garza III
 Appraiser Signature
TX 1328375 - G
 Certification Number

August 15, 2018
 Date

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

Harvey L Heerssen 8-17-18
 Reviewing Appraiser Date





L&G Engineering

Transportation Consultants

August 29, 2018

**Via Certified Mail, Return Receipt Requested No.
7017 0190 0001 1858 8132**

County: Hidalgo
Federal Project No.: N/A
Highway: Mile 3 North Road

ROW CSJ: 0921-02-344
Parcel: 38
From: Tom Gill Road
To: Goodwin Road

Pedro M. Tijerina
4309 N. Brushline Road
Mission, Texas 78574

Dear Mr. Tijerina:

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, Fernando Herrera, Jr., a portion of your property located on Mile 3 North Road, 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 **\$ 7,557.00** for your property, which includes **\$ 6,610.00** for the property to be purchased and **\$947.00** 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.	Fence – Corrugated Sheet Metal	\$ 1.00
B.	Fence – Steel Pipe/Wire Mesh	\$ 1.00
C.	Drive – Caliche	\$ 1.00

If you wish to accept the offer based upon this appraisal, please contact Fernando Herrera, Jr., 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.

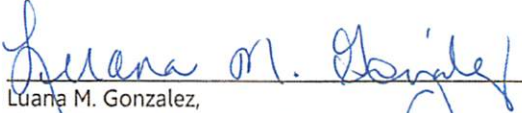
You have the right to discuss with others any offer or agreement regarding the Department's/County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records 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 Mr. Herrera at the telephone number provided above regarding any question you may have.

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

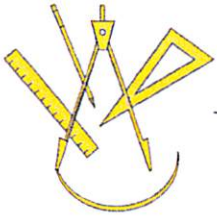
Finally, we enclose copies of all appraisal reports relating to your property being acquired which were prepared in the ten (10) years preceding the date of this offer and produced or acquired by the State/County, including the appraisal on which this offer is based.

Sincerely,



Luana M. Gonzalez,
Right of Way Manager or other signatory

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



L&G Engineering

Transportation Consultants

August 29, 2018

**Via Certified Mail, Return Receipt Requested No.
7017 0190 0001 1858 8132**

County: Hidalgo
Federal Project No.: N/A
Highway: Mile 3 North Road

ROW CSJ: 0921-02-344
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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.	Fence – Corrugated Sheet Metal	\$ 1.00
B.	Fence – Steel Pipe/Wire Mesh	\$ 1.00
C.	Drive – Caliche	\$ 1.00

If you wish to accept the offer based upon this appraisal, please contact Fernando Herrera, Jr., 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.

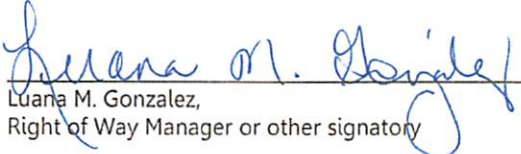
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Finally, we enclose copies of all appraisal reports relating to your property being acquired which were prepared in the ten (10) years preceding the date of this offer and produced or acquired by the State/County, including the appraisal on which this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

Sincerely,


Luana M. Gonzalez,
Right of Way Manager or other signatory

ENCLOSURES:

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

Pharr District
Hidalgo County
Mile 3 North Road: FM Tom Gill Road To Goodwin Road
RCSJ: 0921-02-344
Parcel No. 38

RE: Purchase of 3,857 square feet or 0.0886 of an acre tract of land situated in Hidalgo County, Texas and being out of Porcion 48.

Pedro Tijerina
4309 N. Brushline Road
Mission, Texas 78574

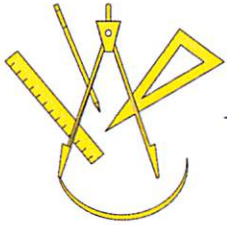
Dear Mr. Salinas,

In reviewing the initial offer package I have concluded that I cannot accept the offer of \$7,557.00 for the reasons being that I feel that my property is worth more. I'd appreciate it that you understand that I am losing business as the road gets wider. I am not able to have 18 wheelers reverse into my bay anymore because the front end of the trucks are in the middle of the road. Now, that their taking more road I'm definitely not going to have space anymore for my clients to reverse into the service bay area for repairs. This leaves me to have to construct a new service bay area towards the back cause of this problem. I ask that the county please consider my counteroffer of \$18,000.00 to invest in my new service bay area and compensate me for the value of my property as well.

Thank You ,


Pedro Tijerina

02-20-2019
Date



L&G Engineering

Transportation Consultants

March 6, 2019

The Honorable Joe Flores
Commissioner, Pct. 3
c/o Norma Ceballos
724 N Breyfogle
PO Box 607
Mission, Texas 78574

RE: County: Hidalgo
TxDOT CSJ No. 0921-02-344
Mile 3 Road
Parcel No. 38

Dear Mr. Flores:

Attached herewith is a counter-offer as submitted by Pedro M. Tijerina, owner of Parcel 38 on February 20, 2019. L & G Engineering has reviewed the aforementioned and hereby recommends that counteroffer be **approved**. Attached also is the N-9, Administrative Settlement Evaluation and Approval Form.

L & G Engineering believes the counteroffer is a valuation, legal and cost savings issue. 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 **\$18,000.00** be accepted.

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