



## HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

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ROW CSJ:0921-02-344

County: Hidalgo

Highway: Mile 3 Road

Project Limits: Tom Gill to Goodwin Road

Parcel No.:5

Owner's Name: Sonia Moreno

Approved Offer: \$8,872.00

Date Offer Sent: 7/16/2018

Owner's Counteroffer: \$10,500.00

Date Counteroffer Received: 3/21/19

### Factors considered in evaluation:

1. Valuation Issues

- a.  Reconciliation of all available appraisals, including Owner's.
- b.  Other: Property owner feels land was not valued properly.

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: 6/2020  
Possession of this property is needed by: 5/2019  
Projected possession date, if settled is: 04/2019  
Projected possession date, if condemned is: 08/2019  
Letting date: 6/2020
- b.  Other: \_\_\_\_\_

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 5 is a 500 square foot or 0.0115 of an acre of land situated in Hidalgo County, Texas and being out of Lot 6, Block A, Daniel Ozuna Subdivision, being a subdivision of Lots 1, 2, 3, Block 37 Homeville Association Subdivision D of Porcion 76, Hidalgo County, Texas. An initial offer was made on July 16, 2018 for the amount of \$8,872.00 to Ms. Moreno. She has prepared and has submitted a counteroffer of \$10,500.00. Ms. Moreno has stated needing additional monies to hire a contractor for the relocation of her improvements as she is not able to make these changes on her own easily. She is asking the County's consideration of her counteroffer in the amount of \$10,500.00 to resolve this matter quickly and also to avoid a condemnation hearing. Therefore, our recommendation is to accept the counteroffer based on recent awards of special commissioners as well as the cost of legal fees for eminent domain cases.

This administrative settlement of \$ 10,500.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

**RECOMMENDATION(S):**

*Juana M. Gonzalez*  
Project Engineer/ROW Administrator

*3/27/19*  
Date

\_\_\_\_\_  
RPIC/Authorized Pct. Representative

\_\_\_\_\_  
Date

**COUNTY APPROVAL:**

\_\_\_\_\_  
County Judge

\_\_\_\_\_  
Date

March 20, 2019

Sonia Moreno  
P.O. Box 271  
Penitas, Texas 78576

Hidalgo County  
Mile 3 North Road  
RCSJ: 0921-02-344  
Parcel No. 5  
Re: Offer Letter dated July 6, 2018

Attn: L&G Engineering  
Luana M. Gonzalez  
Right of Way Administrator

Dear Ms. Gonzalez:

I am in receipt of your offer letter where the County of Hidalgo offers me \$8,872.00 for my land and improvements. My property is located approximately 0.25 mile West of Tom Gill Road in the City of Penitas.

After reviewing the offer letter and the appraisal report, I have decided that the total amount of \$8,872.00 is not acceptable. The reasons for my rejection are noted below:

- I am physically handicapped and do all my daily functions in a wheelchair. This will impair my ability to personally handle the relocation of my fencing and other improvements that are within the right of way taking.
- It will be ultimately necessary that I hire a contractor to handle all these matters for me.
- The prompt relocation of my fence and gate at the proposed right of way is of utmost importance to continue the present security of my property. The re-planting and set up of my landscaping would be secondary.
- A tentative contact with a contractor to purchase certain materials to re-set up my fence and gate are at approximately \$1,500. plus the replacement and planting of some landscaping.

After my personal review of the anticipated expenses to re-gain my present home security and landscaping; my counter offer for Parcel No. 5 is at \$10,500. If this amount is acceptable and approved, I am willing to execute the required conveyance documents to finalize this acquisition.

Furthermore, having to acquire my property by the legal court process would possibly entail a higher costs and a possible delay to the road construction project.

Please contact me if additional information is necessary or if my counteroffer is approved.

Sincerely,

Sonia Moreno





# L&G Engineering

Transportation Consultants

July 6, 2018

**Via Certified Mail, Return Receipt Requested No.  
7013 0600 0002 4176 3662**

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

ROW CSJ: 0921-02-344  
Parcel: 05  
From: Tom Gill Road  
To: Goodwin Road

Sonia Moreno  
P.O. Box 271  
Penitas, TX 78576

Dear Ms. Moreno:

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 \$ 8,872.00 for your property, which includes \$ 8,725.00 for the property to be purchased and \$ 147.00 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. Fencing – Chain Link	\$ 1.00
B. Gates (2) – Chain Link	\$ 1.00
C. Driveway - Concrete	\$ 1.00
D. Landscaping – Trees (7), Cacti & Shrubs	\$ 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.

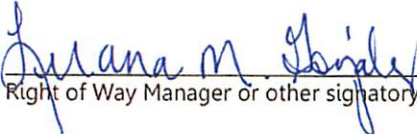
You have the right to discuss with others any offer or agreement regarding the Department's/County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records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

  
Right of Way Manager or other signatory

ENCLOSURES:

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

**TABULATION OF VALUES**

Parcel: 5 Highway: Mile 3 Road ROW CSJ: 0921-02-344  
 Taking Type: Partial District: Pharr  
 Size of Remainder: 0.4905 Acres County: Hidalgo  
 Type of Property: Residential Development Federal Project: N/A  
 Contract Fencing: N/A  
 Appraised by: Leonel Garza III  
 Date Appraised: 6-1-18

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)
Sonia Moreno	Fee Simple	500 sf.	\$1,300.00	No

**I. Appraised Values**

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$1,300.00	\$7,425.00	\$0.00	\$147.00	\$8,872.00

**II. Improvements**

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Fencing	Chain Link	\$961.00	\$1.00	N/A
B.	Gates (2)	Chain Link	255.00	1.00	N/A
C.	Driveway	Concrete	309.00	1.00	N/A
D.	Landscaping	Trees (7) , Cacti & Shrubs	5,900.00	1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		<b>Total</b>	\$7,425.00		

**TABULATION OF VALUES (continued)**

Parcel:5

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	\$147.00	\$147.00

**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
<b>Total</b>			\$0.00	\$0.00	

**V. Recapitulation**

<b>Date:</b>	6-1-18			<b>Recommended Value</b>
<b>Appraiser's Name:</b>	Leonel Garza III			
<b>Value of Whole Property</b>	\$185,863.00			\$185,863.00
<b>Parcel Area: 500 s.f.</b>				
<b>VALUE FOR PARCEL</b>				
Land: per sf. \$2.60	\$1,300.00			\$1,300.00
Easement	\$0.00			\$0.00
Improvements	\$7,425.00			\$7,425.00
Net Damages or (Enhancements)	\$147.00			\$147.00
OAS Value(s)	\$0.00			\$0.00
<b>TOTAL COMPENSATION</b>	\$8,872.00			\$8,872.00

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

**TABULATION OF VALUES (continued)**

Parcel: 5

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 Report: June 1, 2018**  
**Report Dated: June 12, 2018**  
**Review Appraiser: Harvey L. Heerssen**  
**Effective Date of Review: June 16, 2018**

Parcel 5 is a partial taking of 0.0115 acres (500 sq. ft.) parcel of land out of Lot 6, Block "A", Daniel Ozuna Subdivision, being a subdivision of Lots 1, 2, and 3, Block 37, Homeville Association Subdivision "D" of Porcion 76, as recorded in Volume 6, Page 36, of the Map Records, Hidalgo County, Texas, said Daniel Ozuna Subdivision recorded in Volume 23, Page 86, of the Map Records, Hidalgo County, Texas, said Lot 6 conveyed by Gift Warranty Deed dated February 9, 2005, from Arnoldo Hinojosa to Sonia Moreno, as her sole and separate property, as described in Document No. 1438168, of the Official Records, Hidalgo County, Texas.

The whole property is located along the southern side of Mile 3 Road, approximately 0.25 miles west of Tom Gill road in the City of Penitas, Texas. The subject whole property is improved with a well maintained single family residence with related site improvements. The highest and best use of the subject is for single family residential development. The residence is not impacted by the proposed acquisition. The site improvements within the acquisition are appraised 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 \$2.60 per sf. 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 damages are necessary to compensate for the improvements that were depreciated in the acquisition in order to replace these items 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 \$8,872.00 be approved for negotiations and acquisition.**

**VII. Justification and Explanation for Credit if Retained.**

Retentions of \$1.00 are applied to each site improvement within the acquisition to encourage retention.

TABULATION OF VALUES (continued)

Parcel: 5

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

*Henry L. Herman*  
\_\_\_\_\_  
Contract Reviewing Appraiser (if applicable)

\_\_\_\_\_  
6-24-18  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

X. Approval of Values

*Ramon Marcia*  
\_\_\_\_\_  
County/City Representative

*7/3/18*  
\_\_\_\_\_  
Date

\_\_\_\_\_  
ROW Staff Representative

\_\_\_\_\_  
Date

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