



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0865-01-111

Highway: Veterans

Parcel No.: 43

Owner's Name: Raciell Hernandez & Sylvia Hernandez

720 W. Palma Vista Drive, STe 1 Palmview, TX 78572

Approved Offer: \$39,045.00

Owner's Counteroffer: \$49,000.00

County: Hidalgo

Project Limits: Abram Rd to La Homa Rd

Date Offer Sent: 5/26/20

Date Counteroffer Received: 5/27/2020

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
- b. Other: Improvements 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: 9/20
Possession of this property is needed by: 10/2020
Projected possession date, if settled is: 9/2020
Projected possession date, if condemned is: 11/2020
Letting date: 6/2021
- 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 _____

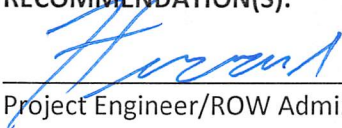
Analysis and Conclusion:

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

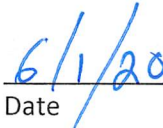
Being a 1,935 square feet or 0.0444 of an acre tract of land out of Lot 21, Goodwin Acres No. 2 Subdivision, as recorded in Volume 25, Page 133, of the Map Records, Hidalgo County, Texas. On May 26, 2020 Acquisition Provider (L&G Engineering) made an offer of \$39,045 to purchase the property of Raciél Hernandez and Sylvia Hernandez. On May 27, 2020 the property owner submitted a counter offer of \$49,000 saying their improvements were undervalued. Property owner believes that his fence, parking spaces, sign, and the relocation of his raspa stand was going to be affected and was not compensated to his satisfaction. Property Owner felt that the appraisal report did not address these issues accordingly as well. Based on the information provided within the counter offer and discussion by the acquisition team we do recommend that the Administrative Settlement be approved. We believe that the proposed counter offer is within a reasonable range of value.

This administrative settlement of \$ 49,000.00 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: 43 Update Highway: Veterans Blvd. (SH 495) ROW CSJ: 0865-01-111
 Taking Type: Partial District: Pharr
 Size of Remainder: 0.9033 Acres County: Hidalgo
 Type of Property: Improved/Commercial Federal Project: N/A
 Contract Fencing: N/A
 Appraised by Leonel Garza III
 Date Appraised: 2/13/2020 (Update)

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
State of Texas	80.00 %	ROW Acquisition Expenses
Hidalgo County Precinct No. 3	20.00 %	ROW Acquisition Expenses

Interest Owner	Acquisition Interest	Land Area	Value	Lease (Y/N)
Raciel & Sylvia Hernandez	Fee Simple	0.0444 Acres/ 1,935 sf.	\$9,869.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$9,869.00	\$20,477.00	\$0.00	\$8,699.00	\$39,045.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Drive	Concrete	\$1,170.00	\$1.00	N/A
B.	Fence	Masonry w/Wrought Iron	10,901.00	1.00	N/A
C.	Gates (2)	Wrought Iron Rolling	3,600.00	1.00	N/A
D.	Fence	Chain Link	403.00	1.00	N/A
E.	Fence	Wood Lattice	128.00	1.00	N/A
F.	Sign	Wood/On Premise	3,750.00	1.00	N/A
G.	Sign	Wood/On Premise	425.00	1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
H.	Light	Electrical	\$100.00	\$1.00	N/A
		Total	\$20,477.00		

TABULATION OF VALUES (continued)

Parcel: 43 Update

Highway: Veterans Blvd. (SH495)

ROW CSJ: 0865-01-111

III. Damages and Enhancements

Total Non-Exempt Damages	Enhancements	Exempt Damages	Net Damages
\$0.00	\$0.00	\$8,699.00	\$8,699.00

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:	2/13/2020 Updated Appraisal	8/15/2018 Original Appraisal		Recommended Value
Appraiser's Name:	Leonel Garza III	Leonel Garza III		
Value of Whole Property	\$411,558.00	\$395,895.00		\$411,558.00
Parcel Area: 1,935 sf.				
VALUE FOR PARCEL				
Land: per sf. 5.10	\$9,869.00	\$9,578.00		\$9,869.00
Easement	\$0.00	\$0.00		\$0.00
Improvements	\$20,477.00	\$11,630.00		\$20,477.00
Net Damages or (Enhancements)	\$8,699.00	\$4,427.00		\$8,699.00
OAS Value(s)	\$0.00	\$0.00		\$0.00
TOTAL COMPENSATION	\$39,045.00	\$25,635.00		\$39,045.00

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

TABULATION OF VALUES (continued)

Parcel: 43 Update

Highway: Veterans Blvd. (SH495)

ROW CSI: 0865-01-111

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: Leonel Garza III
Effective Date of Updated Report: February 13, 2020
Updated Report Dated: May 4, 2020
Review Appraiser: Harvey L. Heerssen
Effective Date of Updated Review: May 5, 2020

Parcel 43 has been updated to reflect a more current and accurate valuation of some of the improvements within the acquisition. These items that have been increased are the masonry and wrought iron fence, wrought iron rolling gates, chain link fencing and the largest wooden advertising sign. Also, the land value has been increased to \$5.10 per sf. due to the passage of time. The original appraised value has been increased from \$25,635 to \$39,045 in this update.

Parcel 43 is a partial taking of 0.0444 acres (1,935 sf.) out of Lot 21, The Goodwin Acres No. 2 Subdivision as recorded in Volume 25, Page 133 of the Map Records, Hidalgo County, Texas, and being a re-subdivision of Lots 15, 16, 17, 18, 19 & 20, Block 5, Goodwin Tract Subdivision No. 1, save and except a 0.220 acre tract of land described by metes and bounds in a General Warranty Deed, dated November 15, 2011, from Raciél Hernandez, et ux, to Mario A. Reyna et ux, et al, recorded in Document No. 2258337 of the Official Records, Hidalgo County, Texas, further save and except a 0.220 acre tract of land described by metes and bounds in A General Warranty Deed, dated November 15, 2011, from Raciél Hernandez, et ux to Mario A. Reyna, et ux, et al, recorded in Document No. 2258336, of the official Records of Hidalgo County, Texas, a 0.293 acre tract of land described by metes and bounds in a Warranty Deed with Vendor's Line, dated November 15, 2011, from Raciél Hernandez, et ux to Leticia Reyna, recorded in Document No. 2263069 of the Official Records of Hidalgo County, Texas and a 0.310 acre tract of land described by metes and bounds in a Warranty Deed with Vendor's Lien, dated April 25, 2012, from Raciél Hernandez, et ux to Armando Gallardo, recorded in Document No. 2302614, of the Official Records of Hidalgo County, Texas, said Lot 21 conveyed by an Assumption Warranty Deed, dated February 14, 1997, from Julian Garza Jr., et ux to Raciél Hernandez and Sylvia Hernandez, husband and wife as recorded in Document No. 580463 of the Official Records of Hidalgo County, Texas.

This parcel is located at the northeast corner of Veterans Boulevard and Goodwin Acres Drive, Hidalgo County, Texas. The whole property of 0.9477 acres is currently improved land with a restaurant and related site improvements. The restaurant is not impacted by the proposed acquisition.

Cost to cure damages are calculated in order to compensate 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 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 \$39,045.00 be approved for continued negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

Retentions of \$1.00 have been applied to each site improvement to encourage retention and removal.

TABULATION OF VALUES (continued)

Parcel: 43 Update

Highway: Veterans Blvd. (SH495)

ROW CSJ: 0865-01-111

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)

5/5/2020
Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

Debra F. Enwa
County/City Representative

5/19/20
Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS' COURT
ON: 5/19/20 me

REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: 918 West Veterans Boulevard, Palmview, Texas District: Pharr
 Property Owner: Raciel & Sylvia Hernandez Parcel: 43
 Address of Property Owner: 720 West Palma Vista Drive, Suite 1, ROW CSJ: 0865-01-111
 Palmview, Texas
 Occupant's Name: Raciel & Sylvia Hernandez Federal Project No: N/A
 Whole: Partial: Acquisition Highway: Veterans Boulevard 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 \$39,045.00 as of February 13, 2020, based upon my independent appraisal and the exercise of my professional judgment;

That on February 13, 2020, I personally inspected in the field the property herein appraised; that I afforded Raciel & Sylvia Hernandez, 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, 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;

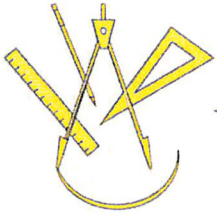
That the reported analysis, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analysis, opinions, and conclusions;

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.

Appraiser Signature _____
 Leonel Garza III
 Certification Number _____
 TX 1328375 - G
 Date: May 4, 2020

To the best of my knowledge, the value does not include any items which are not compensable under State law.	
<i>Harvey L. Heerssen</i> Reviewing Appraiser	5/5/2020 Date



L&G Engineering

Transportation Consultants

May 19, 2020

**Via Certified Mail, Return Receipt Requested No.
7018 1130 0002 1336 3775**

County: Hidalgo
Federal Project No.: N/A
Highway: Veterans Blvd. (SH 495)

ROW CSJ: 0865-01-111
Parcel: 43
From: Abram Road
To: La Homa Road

Raciel Hernandez & Sylvia Hernandez
720 W. Palma Vista Drive, Ste. 1
Palmview, Texas 78572

Dear Mr. & Mrs. Hernandez:

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 Veterans Boulevard (SH 495), 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 \$ 39,045.00 for your property, which includes \$ 30,346.00 for the property to be purchased and \$ 8,699.00 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. Drive – Concrete	\$ 1.00
B. Fence – Masonry w/Wrought Iron	\$ 1.00
C. Gates (2) – Wrought Iron Rolling	\$ 1.00
D. Fence – Chain Link	\$ 1.00
E. Fence – Wood Lattice	\$ 1.00
F. Sign – Wood/On Premise	\$ 1.00
G. Sign – Wood/ On Premise	\$ 1.00
H. Light - Electrical	\$ 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.

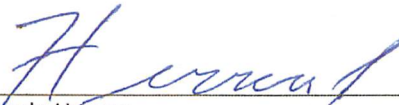
You have the right to discuss with others any offer or agreement regarding the Department's/County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records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



Fernando Herrera,
Right of Way Manager or other signatory

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

May 27, 2020

Leo Salinas
Right-Of-Way Agent
L&G Engineering
900 South Stewart Rd Ste 10
Mission Texas 78572

Re: ROW CSJ: 0865-01-111 Parcel 43 From Abram Road to La Homa Road

Dear Mr. Salinas:

We are in receipt of your offer letter dated May 19, 2020, in the total amount of \$39,045.00 for parcel No. 43 of Veterans Blvd Project. After our review and consideration of Mr. Leonel Garza's appraisal report and the valuation set on the affected land and improvements, we reject the County's offer for the following reasons:

- Our property, formerly a restaurant, is commercial and should be valued accordingly in the appraisal report. This property is located on the corner of Veterans Blvd. and Goodwin Acres Drive with no corner influence applied within the report.
- The Cost-to-Cure damages estimated on Page 6.0 of the appraisal report are not representative of the actual damage and valuation loss caused to our remainder after the taking. We will also be incurring labor and administrative cost to restore these damages. Local builders have indicated a higher cost to maintain the present site utility and existing use of the remainder of this commercial property.
- We note no allowance of additional expenses for the replacement parking spaces impacted by the ROW taking. The proposed taking will be very close to the parking spaces requiring the re-arraignment or loss of same. This will be ultimately necessary to allow safe ingress and regress to our commercial property.

After our consideration to the above noted information, our counteroffer for parcel NO.43 is \$49,000. This amount should compensate us accordingly for our land, improvements and damages to our remainder. We are willing to execute the necessary conveyance documents if this amount is acceptable and approved.

Please contact us at 956-240-3992 if you have any questions or concerns regarding this acquisition.

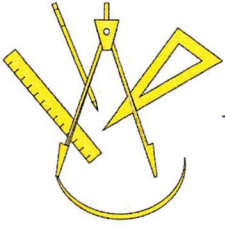
Thank You,

Raciel and Sylvia Hernandez
Property Owners
720 West Palmvista Dr. Ste. 1
Palmview, Texas 78572



Raciel Hernandez

Sylvia Hernandez



L&G Engineering

Transportation Consultants

June 1, 2020

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. 0865-01-111
Veterans Road Blvd
Parcel No.43

Dear Commissioner Flores:

Attached herewith is a counter-offer as submitted by Raciél Hernandez and Sylvia Hernandez, owners of Parcel 43 on May 27, 2020. 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 **\$49,000.00** 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,

for Luana M. Gonzalez

Luana M. Gonzalez
Right of Way Administrator

Attachments: As noted.

cc: File