

L&G Engineering

Transportation Consultants

May 25, 2021

The Honorable Eduardo "Eddie" Cantu
Commissioner, Pct. 2
c/o Armando Garza Jr.
300 West Hall Acres
Pharr, Texas 78577

RE: County: Hidalgo
TxDOT CSJ No. 0921-02-404
Veterans Boulevard: FM 3362 (Jackson Rd.) to Veterans Blvd. (I Road)
Parcel No.: 27

Dear Commissioner Cantu:

Attached herewith is a counter-offer as submitted by Rogelio Torres, and wife, Vanessa Torres, owners of Parcel 27 on May 25, 2021. 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 **\$20,245.00** 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 "Fred" Hererra
Right of Way Administrator

Attachments: As noted.
cc: File



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0921-02-404

Highway: El Dora Road

Parcel No.: 27

Owner's Name: Rogelio and Vanessa Torres

Approved Offer: \$11,951.00

Owner's Counteroffer: \$20,245.00

County: Hidalgo

Project Limits: From FM 3362 (Jackson Rd.)
To Veterans Blvd. (I Road)

Date Offer Sent: 4/21/2021

Date Counteroffer Received: 5/21/2021

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
- b. Other: Property owner feels that their property is was 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 \$20,000.00
- b. Approximate additional cost to litigate through jury trial \$40,000.00
- c. Other: _____

4. Timing Issues

- a. Maintain project schedule: Yes
Possession of this property is needed by: 6/2021
Projected possession date, if settled is: 6/2021
Projected possession date, if condemned is: 11/2021
Letting date: 12/2021
- 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)

Parcel 27 is a partial acquisition containing 1,460 sq. ft. parcel of land being within the limits of the map Lot 116, Kelly-Pharr Subdivision, Hidalgo, County, Texas. On April 21, 2021, Acquisition Provider, L & G Engineering, made an offer of \$11,951.00 to property owners Mr. Roy Torres, and wife, Vanessa Torres, via certified mail. On May 17, 2021, a personal contact at the parcel location was conducted by two ROW agents from L & G Engineering to discuss the County's offer, explain the appraisals and acquisition process. The Torres family had comments regarding the values and improvements to the property remainder. We did not come to an agreement regarding the offer and later that evening they emailed me that they would be submitting a counter offer. On May 25, 2021, the Torres family submitted a counter-offer of \$20,245.00. After discussion and review by the evaluation team, it is the recommendation that the administrative settlement be approved. The property owner feels that the cost to have the same utility is under value. They can no longer use the same motor that they currently have, and the iron fence has to be modified, so that they do not have to cut down a 35 year old tree. They also stated that they feel their land has also been undervalued. The difference between the approved value versus the property owner's counter offer is (difference of \$8,294.00) does not warrant the risk and added expenses associated with standard eminent domain proceedings. accepting said counter offer will help avoid project time delays, and associated condemnation proceedings, thus resulting in a cost saving to the county.

This administrative settlement of \$ 20,245.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):

H. ...
Project Engineer/ROW Administrator

5/28/21
Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

May 21, 2021

The Torres Family
319 E. Eldora Rd
Pharr, TX 78577
(956) 867-0806

To Whom It May Concern,

This letter serves as a counteroffer for the suggested \$11,951.00 settlement for the division of land at 319 E. Eldora Rd, Pharr, TX 78577. We have carefully reviewed every part of your proposal but feel that your offer is way under what it has taken our family to obtain what we have. We understand the need for the expansion of the road and look forward to the growth in our community but feel that this project is more of an inconvenience on our part than a blessing. We understand that sentimental value has nothing to do with your offer, but it holds true in our eyes. Our family has invested time and money in building this acreage to where it is today. The county has projected this constructed for over 8 years now and has continued to delay construction resulting in uncertainty on us moving forward on own home improvement projects. We request that you kindly review the facts associated with our suggested asking price.

For starters, you are basing your appraisal for our property at \$3,285.00. There are 3 other properties being purchased which are used as comparisons to our property, but these are all unoccupied pieces of land. We are not asking for millions of dollars but are asking for fairness amongst everyone. Based on your appraisals, we are to be getting \$2.25 a square foot, but are asking for an increase of \$3.25 as taxes do increase from year to year and with this road construction it will increase even more. Please keep in mind that in the past year, we have seen our property go up around \$14,000, with no expansion. That only proves that our taxes will increase, and we will be paying more for the county to expand this road.

Currently you are offering us \$3,620.00 for damages to our property due to this expansion, but in acquiring estimates and strategizing on ways to make this work, you have projected these damages to be significantly less than they are adding up.

At the present time, we have a rolling fence which will have to be relocated. Due to the widening of the street, we had to come up with a new concept where we will have to push in our gate even farther for our safety and the convenience of others. By relocating the gate, we will have to install concrete footings for every column plus a continuous beam throughout the fence. We will have to have more reinforcement to prevent speeding cars from accidentally coming into our fence and endangering our family. We will have to purchase a new swing gate opener as our current opener is not feasible due to our landscaping where we would have cut into a tree which has been sitting in our front yard for over 35 years. The purpose of this gate opener is to have a vehicle waiting area for the gate to open, preventing vehicles from waiting in the traffic lane. We will also have to relocate the electricity for the installation of our security light and gate opener. We have obtained a quote for the swing gate, which is already totaling \$7,400.00, which does not include the installation of the gate.


We have already contracted someone to install new grass and a sprinkler system which will be up by the end of the summer, making it an inconvenience to proceed with this project. We have already asked for quotes in relocating sprinkler system were estimated at \$2500.

Ultimately, we know this expansion is going to occur, and we are going to be affected by it greatly. When we built this home, we envisioned our family playing in a huge front yard. We had planned to plant fruit trees all along out gate for our family to enjoy endlessly. We understand that this improvement needs to be done, and our dreams have been cut short, so with that being said, this is our counteroffer:

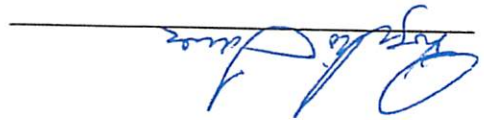
Offer	Counteroffer
Fence	\$5,046
Land	\$3,285 (\$2.25 x 1460 sq ft)
Damages (Gate)	\$3,620
Total	\$11,951
	\$20,245

Sincerely,

Mr. Roy Torres and wife, Vanessa Torres



Mr. Rogelio Torres and wife, Belen Torres



Dawn Perry

Robert Torres

103272

INVOICE NO.

Automatic Gates of So. TX (956) 212-1606

Invoice

VIA

SHIPPED TO

SOLD TO Rosendo Torres

ADDRESS

319 East Cleora

CITY, STATE, ZIP

Pharr, Texas 78539

DATE

5-11-21

P.A.D.

TERMS

CUSTOMER NO. 40

1-	Swing Gate opened	1/2 HP	3450.00
	Installed, Personnel, Warranty		
1-	MT Electrical Reformed by Texas Electrical Contractors		
2-	Plumb Controls		
1-	Safety non-cabinet Sensor		
			\$3450.00
			284.62
			\$3734.62



REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: 319 East Eldora Road, Pharr, Texas 78577 District: 21
 Property Owner: Rogelio & Vanessa Torres Parcel: 27
 Address of Property Owner: 319 East Eldora Road, Pharr, Texas 78577 ROW CSJ: 0921-02-404
 Occupant's Name: Rogelio Torres & Vanessa Torres Federal Project No: N/A
 Whole: Partial: Acquisition Highway: Eldora 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 \$11,951.00 as of November 24, 2020, based upon my independent appraisal and the exercise of my professional judgment;

That on November 24, 2020, I personally inspected in the field the property herein appraised; that I afforded Rogelio & Vanessa Torres, 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 November 24, 2020;

That I have not revealed and will not reveal the findings and results of such appraisal to anyone other than L&G Consulting Engineers, Inc. and the proper officials and Hidalgo County 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 SB-18 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? No (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 .

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: January 11, 2021

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

Harvey L. Heerssen 1/21/2021
 Reviewing Appraiser Date



TABULATION OF VALUES

Parcel: 27 Highway: Eldora Road ROW CSJ: 0921-02-404
 Taking Type: Partial District: Pharr
 Size of Remainder: 0.933 Acres County: Hidalgo
 Type of Property: Improved/Residential Federal Project: N/A
 Contract Fencing: N/A

Appraised by Leonel Garza III

Date Appraised: 11/24/2020

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%	ROW Acquisition Expenses
Hidalgo County Precinct No. 2	20%	ROW Acquisition Expenses

Interest Owner	Acquisition Interest	Land Area	Value	Lease (Y/N)
Rogelio & Vanessa Torres	Fee Simple	1,460 sf.-Net Acquisition	\$3,285.00	No
	Existing ROW	1,460 sf.	\$0.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$3,285.00	\$5,046.00	\$0.00	\$3,620.00	\$11,951.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Fence	Wrought Iron w/Block Masonry	\$4,680.00	\$1.00	N/A
B.	Light w/Wiring	Security	180.00	1.00	N/A
C.	Drive	Caliche	84.00	1.00	N/A
D.	Fence	Chain Link	102.00	1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisecton Category
			\$5,046.00		
			Total		

TABULATION OF VALUES (continued)

Parcel: 27

Highway: Eldora Road

ROW CSJ: 0921-02-404

III. Damages and Enhancements

Total Non-Exempt Damages	Enhancements	Exempt Damages	Net Damages
\$2,160.00	\$0.00	\$1,460.00	\$3,620.00

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:	11/24/2020			Recommended Value
Appraiser's Name:	Leonel Garza III			
Value of Whole Property	\$322,032.00			\$322,032.00
Parcel Area: 1,460 Net sf.				
VALUE FOR PARCEL				
Land: per sf. \$2.25	\$3,285.00			\$3,285.00
Easement	\$0.00			\$0.00
Improvements	\$5,046.00			\$5,046.00
Net Damages or (Enhancements)	\$3,620.00			\$3,620.00
OAS Value(s)	\$0.00			\$0.00
TOTAL COMPENSATION	\$11,951.00			\$11,951.00

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

TABULATION OF VALUES (continued)

Parcel: 27

Highway: Eldora Road

ROW CSJ: 0921-02-404

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: Leonel Garza III
Effective Date of Report: November 24, 2020
Report Dated: January 11, 2021
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: January 16, 2021

Parcel 27 is a partial taking of 0.067 acres (2,920 sf.) situated in Lot 116, Kelly-Pharr Subdivision, as recorded in Volume 3, Page 133, of the Deed Records, Hidalgo County, Texas, said being out of a called 1.00 acre tract of land conveyed to Rogelio Roy Torres ad wife Vanessa Torres by a Warranty Deed dated July 19, 2012 and recorded on July 25, 2012 as described in Document Number 2328834, of the Official Records, Hidalgo County, Texas.

The whole property of 1.00 acres is located along the north line of Eldora Road just east of Birch Street, Pharr, Texas. and is improved with a single family residence and related site improvements. The residence is not impacted by the proposed acquisition. Site improvements within the acquisition are appraised accordingly. The total acquisition of 2,920 sf. includes an amount of 1,460 square feet within the existing right of way. This portion has no value. The square footage within the existing right of way was provided by the surveyor to the appraiser.

The appraiser Leonel Garza III has selected three (3) recent sales to value the whole tract at \$2.25 per sf. The highest and best use is for residential purposes. There are no market damages to the remainder land. There are market damages to the wrought iron rolling gate and electric motor due to proximity of the new right of way line Cost to cure cost tis necessary to relocate the gate/motor and security light further back on the remainder.

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 \$11,951.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

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

TABULATION OF VALUES (continued)

Parcel: 27

Highway: Eldora Road

ROW CSJ: 0921-02-404

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

[Signature]

Contract Reviewing Appraiser (if applicable)

Date 1/21/2021

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

[Signature]

County/City Representative

[Signature]

Date 3/23/21

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS COURT
ON: *[Signature]* 3/9/21



Via Certified Mail, Return Receipt Requested No. 7019 0700 0000 7795 9935

ROW CSI: 0921-02-404
 Parcel: 27
 From: FM 3362 (Jackson Road)
 To: Veterans Blvd. (I Road)

County: Hidalgo
 Federal Project No.: N/A
 Highway: El Dora Road
 Rogelio and Vanessa Torres
 319 E. Eldora Road
 Pharr, Texas 78577

Dear Mr. & Mrs. Torres:

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 Eldora 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 \$ 11,951.00 for your property, which includes \$8,331.00 for the property to be purchased and \$ 3,620.00 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.

A. Fencing – Wrought Iron w/Block Masonry	\$ 1.00
B. Light w/Wiring-Security	\$ 1.00
C. Drive-Calliche	\$ 1.00
D. Fence-Chain Link	\$ 1.00
<u>Improvement</u>	<u>\$ 1.00</u>
Amount to be Subtracted if Retained	\$ 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 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*")