

L&G Engineering

Transportation Consultants

June 3, 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
Eldora Road: FM 3362 (Jackson Rd.) to Veterans Blvd. (I Road)
Parcel No.: 41

Dear Commissioner Cantu:

Attached herewith is a counter-offer as submitted by Silvestre De la Rosa, owner of Parcel 41 on May 24, 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 **\$36,615.00** 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.: 41

Owner's Name: Silvestre De La Rosa, Jr.

Approved Offer: \$26,615.00

Owner's Counteroffer: \$36,615.00

County: Hidalgo

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

Date Offer Sent: 4/24/2021

Date Counteroffer Received: 5/24/2021

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 _____

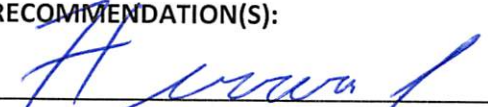
Analysis and Conclusion:

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

Parcel 41 is a partial acquisition containing 5,280 sq. ft. parcel of land being within the limits of the map Lot 113, Kelly-Pharr Subdivision, Hidalgo, County, Texas. On April 24, 2021, Acquisition Provider, L & G Engineering, made an offer of \$26,615.00 to property owner, Silvestre De La Rosa, via certified mail. On May 5, 2021, a personal contact at the parcel site was conducted by two ROW Agents from L & G Engineering to discuss the County's offer and explain the appraisal and acquisition process. Mr. De la Rosa and his mother made some comments regarding the values of the improvements but were mostly dissatisfied with the money amounts allowed for re-construction and re-set up of their business building on the remainder land. They did mention they would be submitting a counter-offer May 24, 2021. The major reason for the counter offer is directed to the re-building expenses they will incur, for the re-set up of their auto mechanic and paint shop building. The City of Pharr will not give them a permit unless they re-build the shop site area with a code level of fill dirt and caliche for the driveway. The anticipated cost of the asphalt driveway and the shop's concrete floor is very expensive now a days. Re-building the shop facility in accordance to the city codes will be expensive but will allow them to regain the present use and utility of their shop on their remiander land. Furthermore Mr. De La Rosa also feels that the land value is also low along with their other inprovements within the proposed ROW. In view of the above mentioned, Mr. De La Rosa has submitted a counter offer for \$36,615.00 inclusive of verbal quotes substantiating their counter. After discussion and review by the L & G evaluation team, it is the recommendation that the administrative settlement be approved. Acquiring Parcel No. 41 by the legal process 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. Property owner has on his own cleared the title for this property and Parcel no. 41, now is cleared for closing with no anticipated curative delays.

This administrative settlement of \$ 36,615.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator

6/4/21

Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

①

May, 27, 2021

L & G Engineering

To: Right of Way Agent - Our counter offer
Novelia Sanchez } is \$36,615.00

The proposal of \$26,615.00 is not an adequate amount to the foreseen amount of expenses that will have to be made. We are asking for \$10,000.00 more to be able to afford some of the unexpected expenses that have to be made at this time due to having to build new shop.

- \$15,000.00 Building 25x40 Plus labor
To install
- \$400.00 - Fill dirt
- \$600.00 - Caliche
- \$5,000.00 - Cement Floor
- \$5,000.00 - Black Top - Parking area
 - Electrician to disconnect from old shop and reconnect with new wire to new shop
 - Septic Tank and sewer pipes
 - Mail Box
 - Taxes will increase
 - Deposit on new service
 - Plumbing - New shop
 - Remove Security Camera and re install to new shop
- \$350.00 - Elevation survey if just update
- \$500.00 - if New Elevation Survey

②

May, 24, 2021

- Drafting Service for New
shop

Parcel - 41

801 E. El Dora Rd.

Pharr, Texas, 78577

Owner; S. L. & D. L. Roe Jr.

Right of Way

30'

Parking

50'

30'

New

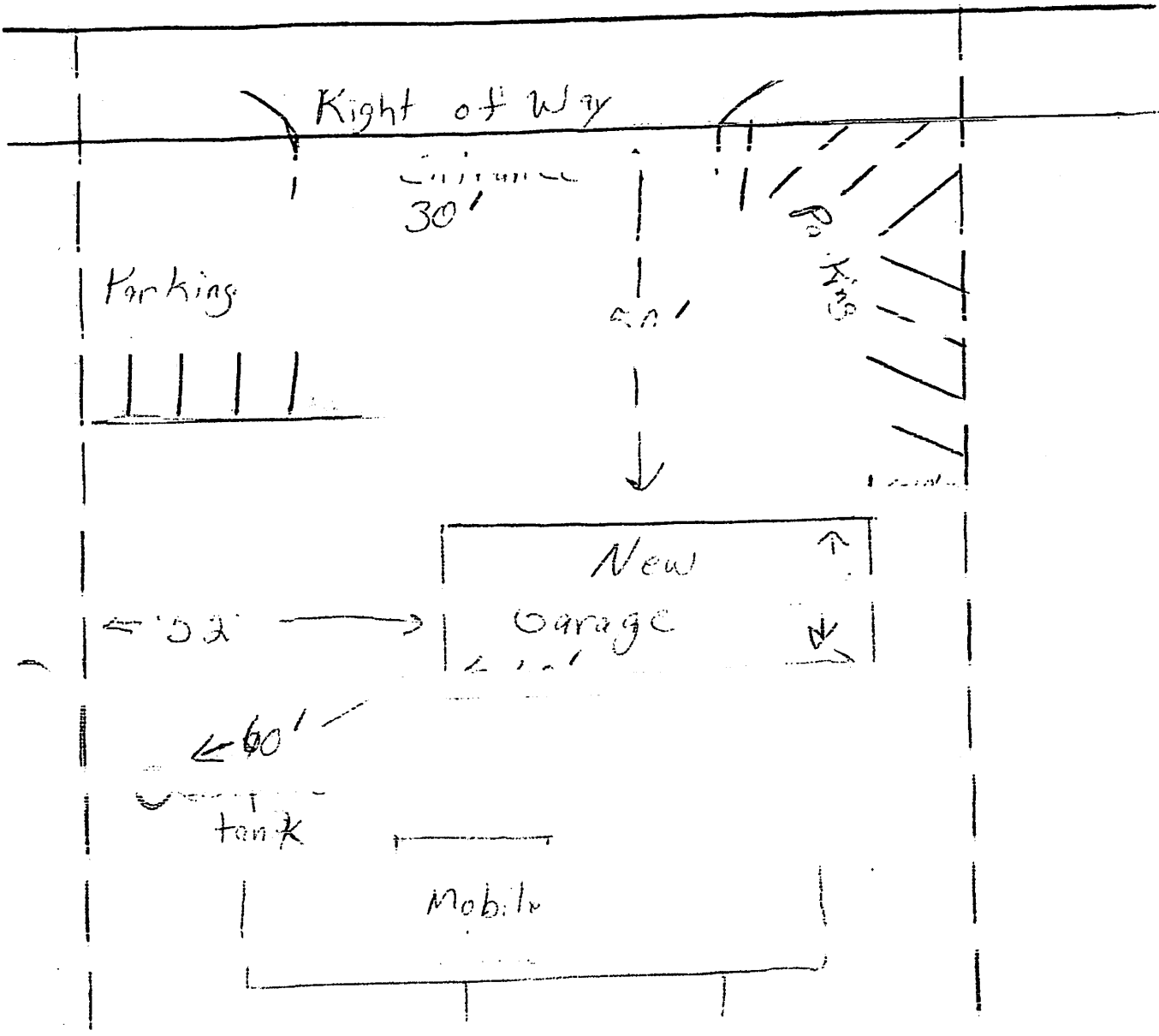
Garage

52'

60'

tank

Mobile



REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: 801 East Eldora Road, Pharr, Texas 78577 District: 21
 Property Owner: Silvestre, Jr. De La Rosa Parcel: 41
 Address of Property Owner: 801 East Eldora Road, Pharr, Texas 78577 ROW CSJ: 0921-02-404
 Occupant's Name: Silvestre De La Rosa, Jr. 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 \$26,615.00 as of December 22, 2020, based upon my independent appraisal and the exercise of my professional judgment;

That on December 22, 2020 & November 24, 2020, I personally inspected in the field the property herein appraised; that I afforded Silvestre, Jr. De La Rosa, 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:

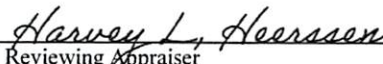
That the statements of fact contained in this report are true and correct;

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: February 11, 2021

To the best of my knowledge, the value does not include any items which are not compensable under State law.	
 Reviewing Appraiser	2/24/2021 Date



Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
G.	Pole w/Guy Wire	Antennae	\$113.00	\$1.00	N/A
H.	Fencing	Cedar	278.00	1.00	N/A
I.	Landscaping	Cactus Cluster	250.00	1.00	N/A
		Total	\$2,833.00		

TABULATION OF VALUES (continued)

Parcel: 41

Highway: Eldora Road

ROW CSJ: 0921-02-404

III. Damages and Enhancements

Total Non-Exempt Damages	Enhancements	Exempt Damages	Net Damages
\$16,278.00	\$0.00	\$3,544.00	\$19,822.00

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:	12/22/2020			Recommended Value
Appraiser's Name:	Leonel Garza III			
Value of Whole Property	\$105,026.00			105,026.00
Parcel Area: 2,640 Net sf.				
VALUE FOR PARCEL				
Land: per sf. \$1.50	\$3,960.00			\$3,960.00
Easement	\$0.00			\$0.00
Improvements	\$2,833.00			\$2,833.00
Net Damages or (Enhancements)	\$19,822.00			\$19,822.00
OAS Value(s)	\$0.00			\$0.00
TOTAL COMPENSATION	\$26,615.00			\$26,615.00

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

TABULATION OF VALUES (continued)

Parcel: 41

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: December 22, 2020
Report Dated: February 11, 2021
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: February 21, 2021

Parcel 41 is a partial taking of 0.121 gross acres (5,280 gross sf.) situated in Lot 113, Kelly-Pharr Subdivision, as recorded in Volume 3, Page 133, of the Deed Records, Hidalgo County, Texas, said being out of a called 1.03 acre tract of land conveyed to Silvestre de la Rosa, Jr., a single man by a Special Warranty Deed with Vendor's Lien dated September 27, 2013 and recorded on October 30, 2013 as described in Document Number 2459941 of the Official Records, Hidalgo County, Texas.

The whole property of 1.03 acres is located along the north line of Eldora Road approximately 0.08 miles west of Veterans Boulevard, ('I' Road), Pharr, Texas. The whole is improved land containing a masonry block wall frame structure on concrete foundation along with related site improvements. The main building is not impacted by the proposed acquisition. The total acquisition of 5,280 sf. includes an amount of 2,640 square feet within the existing right of way having 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 \$1.50 per sf. The highest and best use is for commercial purposes. There are no market damages to the remainder land. However, there are market damages at 100% to the metal roof canopy, asphalt pavement and garage/storage building due to proximity of the new right of way line. Cost to cure is necessary to compensate for the site improvements that were depreciated within the acquisition 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 the total value of \$26,615.00 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: 41

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



Contract Reviewing Appraiser (if applicable)

2/24/2021

Date

Division Reviewing Appraiser (if applicable)

Date

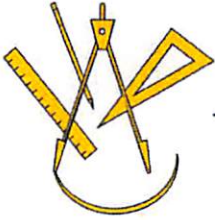
X. Approval of Values

County/City Representative

Date

ROW Staff Representative

Date



L&G Engineering

Transportation Consultants

April 16, 2021

**Via Certified Mail, Return Receipt Requested No.
7019 0700 0000 7795 0031**

County: Hidalgo
Federal Project No.: N/A
Highway: El Dora Road

ROW CSJ: 0921-02-404
Parcel: 41
From: FM 3362 (Jackson Road)
To: Veterans Blvd. (I Road)

Sylvestre De La Rosa Jr.
801 East Eldora Road
Pharr, Texas 78577

Dear Mr. De La Rosa:

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 **\$26,615.00** for your property, which includes **\$6,793.00** for the property to be purchased and **\$19,822.00** 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. Pavement - Asphalt	\$ 1.00
B. Driveway-Caliche	\$ 1.00
C. Fencing-Corrugated Metal	\$ 1.00
D. Fencing-Hog Wire	\$ 1.00
E. Flagpole-Metal	\$ 1.00
F. Sign-On Premise	\$ 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*")