



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ:0921-02-364

County: Hidalgo

Highway: Liberty Rd. II

Project Limits: Mile 3 to FM 2221 (Mile 7)

Parcel No.:7

Owner's Name: Edmundo Farias, Jr.

Approved Offer: \$8,143.00

Date Offer Sent: 6/19/2020

Owner's Counteroffer: \$11,863.00

Date Counteroffer Received: 10/12/2021

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
- b. Other: Prpoerty Owner feels they should be compensated for expenses and undervalued expenses.

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: 09/2022
Possession of this property is needed by: 12/2021
Projected possession date, if settled is: 11/2021
Projected possession date, if condemned is: 05/2022
Letting date: 09/2022
- b. Other: _____

5. Other Issues

It appears that the property owner's counteroffer is within an acceptable value. Subjecting this parcel through the process of Codemnation using the County's sovereign power of Eminent Domain would be time consuming and a costly approach.

** 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 _____

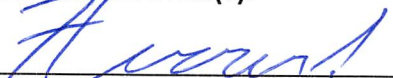
Analysis and Conclusion:

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

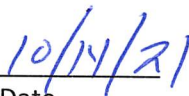
Parcel 7 being a 2,097 square foot or 0.0481 of an acre tract of land situated in Lazaro Flores Survey, Abstract 576, Porcion 76, out of Lot 1, Block 9, Homeville Association Subdivision "D as recorded in Volume 6, Page 36, of the Map Records, Hidalgo County, Texas. L&G Engineers sent an initial offer packet on 6/19/2020 in the amount of \$8,143.00 to Edmundo Farias, Jr.(property owner). In discussion with the property owner, he feels that the improvements is under valued and provided a cost estimate of \$7,000.00 to relocate and rebuild the fence that secures his property. Due to the increase of materials and labor fees the property owner submitted a counter of \$11,863.00. After discussion by the acquisition team, it is the recommendation that the administrative settlement be approved. The cost estimate provides a difference between the state approved value of 8,143.00 versus the property owner's counter offer a difference of \$3,720.00 and 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 State.

This administrative settlement of \$ 11,863.00 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

October 12, 2021

Edmundo Farias, Jr.
404 W. Daffodil Avenue
McAllen, Texas 78501

Re: Offer letter dated June 19, 2020
Liberty Road – Section 2
Parcel No. 7

Attn: L&G Engineering
Joe Castellano
Right of Way Agent

Dear Mr. Castellano:

In an offer letter dated June 19, 2020, the Texas Department of Transportation and Hidalgo County is offering me **\$8,143.00** for the purchase of my land and improvements. I have reviewed the enclosed appraisal report and have determined to reject the County's offer.

The basis for the rejection is as follows:

- A. Page 4.0 of the appraisal report shows the value of my fence and steel gate with a 50% depreciation. These improvements are at a total value of \$1,740.00.
- B. Page 5.7 of the report also shows an amount of \$1,540.00 as a total cost to cure to replace these improvements on my land remainder. Both of these amounts are at \$3,280.00.
- C. The attached "Proposal" or cost estimate is calculated at \$7,000.00 to relocate and rebuild my security fence on my remainder land.
- D. Value of land and caliche drive on page 4.0 of report shows (Land @ \$4,823.00 and Drive @ \$40.00) \$4,863.00 for these items.

Amount of cost estimate:	\$7,000.00
Amount of fence and gate in appraisal report:	\$3,280.00
Difference:	-\$3,720.00

Amount of land value and Improvements:	\$4,863.00
Amount of fence and gate:	\$3,280.00
Total:	\$8,143.00

Total Value of Land and improvements:	\$8,143.00
Difference of cost estimate and value of fence and gate:	\$3,720.00
Grand Total:	\$11,863.00

In consideration of the above calculations, my counter offer is for **\$11,863.00**. If this amount is reviewed and approved, I am willing to execute the necessary conveyance documentation to consummate this acquisition transaction. Thank you for your consideration to this important matter.

Sincerely,



Edmundo Farias, Jr. – Owner

Attached: Exhibit A (Proposal for fence removal and relocation.)

Attachment "A"

Proposal

Page # _____ of _____ pages

FARIAS BROTHERS STEEL
404 W. DAF FODIL AVE
MUSKOGEE, TEXAS 78501

956 3581070

Proposal Submitted To: <i>County Hidalgo (246)</i>	Job Name <i>PIPE FENCE</i>	Job #
Address	Job Location <i>Penitas Tx Liberty Rd. & Salinas</i>	
	Date <i>OCT 12, 2021</i>	Date of Plans
Phone # <i>956-583-7117</i>	Fax #	Architect

I hereby submit specifications and estimates for:

*ADMINISTRATION Settlement / Counter offer for
Relocating PIPE FENCE & GATE.*

- ① Remove and Relocate Pipe Fence & Steel Gate
- ② Supply welding Equipment.
- ③ Supply SKY LIFT.
- ④ Supply Rigger.
- ⑤ Cement & Gravel.
- ⑥ Supply Labor 3 MEN (3 weeks)

We propose hereby to furnish material and labor - complete in accordance with the above specifications for the sum of:

Seven Thous and DLLS

\$ 7,000.⁰⁰ Dollars

with payments to be made as follows: _____

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted

Note - this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____

Date of Acceptance _____

Signature _____

REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: SWC Salinas Road & Liberty Road, Penitas, Texas 78576 District: 21
 Property Owner: Edmundo Farias, Jr. Parcel: 7
 Address of Property Owner: 404 W Daffodil Ave Mcalle, Texas 78501 ROW CSJ: 0921-02-364
 Occupant's Name: Edmundo Farias, Jr. Federal Project No: N/A
 Whole: Partial: Acquisition Highway: Mile 3 to FM 2221 (Mile 7) 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 \$8,143 as of May 5, 2020, based upon my independent appraisal and the exercise of my professional judgment;

That on May 5, 2020, I personally inspected in the field the property herein appraised; that I afforded Edmundo Farias, Jr., 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 May 3, 2020;

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 L & G Engineering, 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 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? 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 \$ 0.00 .

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;

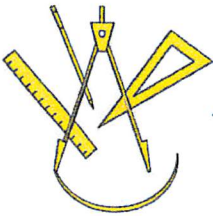
That I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved;

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 15, 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>	5/30/2020
Reviewing Appraiser	Date





L&G Engineering

Transportation Consultants

June 19, 2020

**Via Certified Mail, Return Receipt Requested No.
7018 1130 0002 1336 4154**

County: Hidalgo
Federal Project No.: N/A
Highway: Liberty Road –Section 2

ROW CSJ: 0921-02-364
Parcel: 07
From: Mile 3
To: FM 2221 (Mile 7)

Edmundo Farias, Jr.
404 W. Daffodil Ave.
McAllen, Texas 78501

Dear Mr. Farias, Jr.:

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 Liberty 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 **\$ 8,143.00** for your property, which includes **\$ 6,603.00** for the property to be purchased and **\$ 1,540.00** for damages to your remaining property. This amount is the total amount of just compensation for all interests in the portion of your property to be acquired, as determined in accordance with State law, less oil, gas and sulphur, subject to clear title being conveyed to the County. In accordance with State law, it is the policy of the Department/County to negotiate with the fee owner(s) of the real property with the understanding that you will, in turn, negotiate with any lessee or other party who may own any interest in the land or improvements, with the exception of public utility easements, which will be handled separately by the Department/County.

This offer to purchase includes the contributory values of the improvement(s) listed below, which are considered to be part of the real property. Since the improvement(s) must be removed, it is the policy of the Department/County to permit owners who convey voluntarily to the State to thereafter retain the improvement(s), if they wish to do so. The retention values shown below are the estimated amounts the improvement(s) would bring if sold on public bids. If you wish to retain title to any of the following improvement(s) and remove it (them) from the right of way, the amount of the above offer must be reduced by the appropriate retention amount(s). This option to retain the improvement(s) does NOT apply should it become necessary for the County to acquire the real property by eminent domain.

<u>Improvement</u>	<u>Amount to be Subtracted if Retained</u>
A. Fence – Oil Pipe	\$ 1.00
B. Drive - Caliche	\$ 1.00
C. Gate - Steel	\$ 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*")

TABULATION OF VALUES

Parcel: 7 Highway: **Liberty Road-Phase II** ROW CSJ: **0921-02-364**
 Taking Type: Partial District: Pharr
 Size of Remainder: 0.5108 Acres County: Hidalgo
 Type of Property: Improved/Residential Federal Project: N/A
 Contract Fencing: N/A
 Appraised by Leonel Garza III
 Date Appraised: 5/5/2020

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. 3	20%	ROW Acquisition Expenses

Interest Owner	Acquisition Interest	Land Area	Value	Lease (Y/N)
Edmundo Farias, Jr.	Fee Simple	0.0481 Acres/ 2,097 sf.	\$4,823.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$4,823.00	\$1,780.00	\$0.00	\$1,540.00	\$8,143.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Fence	Oil Pipe	\$1,240.00	\$1.00	N/A
B.	Drive	Caliche	40.00	1.00	N/A
C.	Gate	Steel	500.00	1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		Total	\$1,780.00		

TABULATION OF VALUES (continued)

Parcel: 7

Highway: Liberty Road-Phase II

ROW CSJ: 0921-02-364

III. Damages and Enhancements

Total Non-Exempt Damages	Enhancements	Exempt Damages	Net Damages
\$0.00	\$0.00	\$1,540.00	\$1,540.00

IV. Sign Values

Item No.	Sign Owner	Type Construction	Improvement Value	Retention Value	Bisect. Cat.
N/A	N/A	N/A	N/A	N/A	N/A
Total			\$0.00	\$0.00	

V. Recapitulation

Date:	5/5/2020	Recommended Value
Appraiser's Name:	Leonel Garza III	
Value of Whole Property	\$59,720.00	\$59,720.00
Parcel Area: 2,097 sf.		
VALUE FOR PARCEL		
Land: per_sf. \$2.30	\$4,823.00	\$4,823.00
Easement	\$0.00	\$0.00
Improvements	\$1,780.00	\$1,780.00
Net Damages or (Enhancements)	\$1,540.00	\$1,540.00
OAS Value(s)	\$0.00	\$0.00
TOTAL COMPENSATION	\$8,143.00	\$8,143.00

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

TABULATION OF VALUES (continued)

Parcel: 7

Highway: **Liberty Road-Phase II**

ROW CSJ: **0921-02-364**

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: Leonel Garza III
Effective Date of Report: May 5, 2020
Report Dated: May 15, 2020
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: May 26, 2020

Parcel 7 is a partial taking of 0.0481 acres (2,097 sf.) situated in the Lazero Flores Survey, Abstract 576, Porcion 76, out of Lot 1, Block 9, Homeville Association Subdivision "D," as recorded in Volume 6, Page 36, of the Map Records, Hidalgo County, Texas, conveyed by Warranty Deed with Vendor's Lien dated January 4, 2007, to Edmundo Farias, Jr., as described in Document Number 1712578, of the Official Records, Hidalgo County, Texas.

The whole property of 0.5589 acres is located at the southwest corner of Liberty Road and Salinas Drive, Penitas, Texas. The whole property is improved with site improvements with no major building. Site improvements within the taking consisting of fence, drive and gate that are valued accordingly.

The appraiser Leonel Garza III has selected three (3) recent sales to value the whole tract at \$2.30 per sf. The highest and best use is for residential purposes. The part taken is properly appraised as a pro-rata part of the whole unit value. There are no market damages to the remainder land. Cost to cure is indicated to compensate for the 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 \$8,143.00 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: 7

Highway: **Liberty Road-Phase II**

ROW CSJ: **0921-02-364**

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)

5/30/2020

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

County/City Representative

Date

ROW Staff Representative

Date