



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0921-02-372

Highway: Liberty Rd

Parcel No.: 16 thru 21 Release of Easements

Owner's Name: Agua Special Utility District

Approved Offer: \$11,480.00

Owner's Counteroffer: \$25,000.00

County: Hidalgo

Project Limits: US 83 to Mile 3

Date Offer Sent: 1/06/2021

Date Counteroffer Received: 10/21/2021

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
- b. Other: Easement interest holders believe the easements is 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: 4/2022
Possession of this property is needed by: 12/2021
Projected possession date, if settled is: 12/2021
Projected possession date, if condemned is: 5/2022
Letting date: 4/2022
- 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 16 thru 21 Release of Easements are utility easements totaling 16,883 square feet. The utility is owned by Agua Special Utility District (Agua SUD). On January 6, 2021, Acquisition Provider (L&G Engineering) made offer of \$11,480.00 to purchase the easements from Agua SUD. On 10/21/2021, Agua SUD (Robert Salinas-GM.) submitted a counter offer of \$25,000.00 a difference of \$13,520.00. The information provided from Agua SUD was that they believe the initial offer wasn't adequate to the fair market value. After discussion by the acquisition team, it is the recommendation that the Administrative Settlement be approved. Although the easement interest holder did not provide any salient information, it does not warrant the risk and added expenses associated with standard eminent domain proceedings. Therefore, accepting said counter offer will help to avoid project time delays and associated condemnation proceedings thus resulting in a cost savings to the County.

This administrative settlement of \$ 25,000.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator

11/9/21

Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

| Item No. | Improvement Type | Type Construction | Improvement Value | Retention Value | Bisection Category |
|----------|------------------|-------------------|-------------------|-----------------|--------------------|
| | | | | | |
| | | | | | |
| | | Total | \$0.00 | | |

TABULATION OF VALUES (continued)

Parcel: 16-21

Highway: Liberty Road-Section 1

ROW CSJ: 0921-02-372

III. Damages and Enhancements

| Total Non-Exempt Damages | Enhancements | Exempt Damages | Net Damages |
|--------------------------|--------------|----------------|-------------|
| \$0.00 | \$0.00 | \$0.00 | \$0.00 |

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: | 8/1/2020 | Recommended Value |
|------------------------------------------------------|------------------|-------------------|
| Appraiser's Name: | Leonel Garza III | |
| Value of Whole Property (16,883 sf. @ \$2.70 Fee) | \$45,584.00 | \$45,584.00 |
| Parcel Area: 16,883 sf. | | |
| VALUE FOR PARCEL | | |
| Land: per sf. 2.70 -Fee | \$45,584.00 | \$45,584.00 |
| Easement @25% of Fee or \$0.68 per sf.-Utility | \$11,480.00 | \$11,480.00 |
| Improvements | \$0.00 | \$0.00 |
| Net Damages or (Enhancements) | \$0.00 | \$0.00 |
| OAS Value(s) | \$0.00 | \$0.00 |
| TOTAL COMPENSATION | \$11,480.00 | \$11,480.00 |

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

TABULATION OF VALUES (continued)

Parcel: 16-21

Highway: Liberty Road-Section 1

ROW CSJ: 0921-02-372

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: Leonel Garza III
Effective Date of Report: August 1, 2020
Report Dated: August 31, 2020
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: September 22, 2020

Parcels 16 through 21 are occupied by a utility easement totaling 16,883 square feet of easement. The utility is owned by Agua Specialty Utility District, Hidalgo County, Texas.

The parcels are occupied by the utility on the east side of Liberty Road between Mile 3 Road and Pine Street, Penitas, Texas. The appraiser Leonel Garza III has selected three (3) recent sales to value the parcels at \$2.70 per sf. for the fee value. The parcels are encumbered by the easement and the appraiser estimates the occupancy at 25% of the fee value or \$0.68 per sf. due to limited use of the area.

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 \$11,480.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

Retentions are not applicable.

TABULATION OF VALUES (continued)

Parcel: 16-21

Highway: Liberty Road-Section 1

ROW CSJ: 0921-02-372

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

J. Henry L. Johnson
Contract Reviewing Appraiser (if applicable)

9/23/2020

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

Richard D. Curran
County/City Representative

10/13/20
Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS' COURT
DN: *9/25/18* *al*

REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: East side of Liberty Road between Mile 3 District: 21
 Road & Pino Street, Penitas, Texas
 Property Owner: Agua Specialty Utility District Parcels: 16 thru 21
 Address of Property Owner: 3120 N Abram Road ROW CSJ: 0921-02-372
 Occupant's Name: Agua Special Utility District Federal Project No: N/A
 Whole: Partial: Acquisition Highway: Liberty 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 \$11,480 as of August 1, 2020, based upon my independent appraisal and the exercise of my professional judgment;

That on August 1, 2020, I personally inspected in the field the property herein appraised; that I afforded , 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 , 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 .

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;

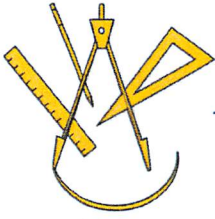
That my analysis, opinions and conclusions were developed, and this report has been prepared in conformity with the appropriate State laws, regulations, and policies and procedures applicable to the appraisal of right-of-way for such purposes, and that to the best of my knowledge no portion of the value 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: August 31, 2020

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

Harvey L. Heerssen 9/23/2020
 Reviewing Appraiser Date





L&G Engineering

Transportation Consultants

4/5/2021

**Via Certified Mail, Return Receipt Requested
No. 7020 0090 0002 0417 6347**

County: Hidalgo
CSJ: 0921-02-372
Highway: Liberty Rd. Ph. I
From: US 83
To: Mile 3
Parcel: Easement Rights

AGUA SUD
3120 N. Abram Rd.
Palmview, Texas 78572

Dear Sirs:

The County of Hidalgo (the "County") by and through its acquisition consultant, L & G Engineering Acquisition Services (the "Contractor"), is presently proceeding with the acquisition of right of way for the construction of Liberty Rd. from US 83 to Mile 3.

In acquiring property for the highway systems of Texas, the Texas Department of Transportation (the "Department") and the County follow a definite procedure for appraising the land needed and for handling personal negotiations with each Interest Owner. As has been or will be explained by the L&G's negotiator, Robert Casarez, your easement rights located within the parcel of this project are to be acquired.

We believe at this stage of the purchase process it is mutually beneficial to confirm that based on an appraisal(s) made by an independent appraiser(s) and an analysis by an independent review appraiser, the County is authorized to offer you **\$11,480.00** for a portion of your easement. This amount is the total amount of just compensation for the easement rights, as determined through the appraisal process.

If you wish to accept the offer based upon this appraisal, please contact L&G Engineering 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 Contractor within the 30 day time deadline.*

In the event the condition of the property changes for any reason, the State/County shall have the right to withdraw or modify this offer.

It will be necessary that both the easement and fee title to subject tract be acquired through normal acquisition negotiations in order to consummate this transaction and obtain payment from the County.

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 County of Hidalgo. Expenses eligible for reimbursement may include (1) recording fees, transfer taxes and similar expenses incidental to conveying the real property to the Department 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 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 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 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 to the Department.

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 Department'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 Department/County, including the appraisal on which this offer is based.

Sincerely,

for Herrera

Luana M. Gonzalez,
Right of Way Manager or other signatory

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



Agua Special Utility District
P. O. Box 4379 | Mission, Texas | 78573-0075
(956) 585-2459 | FAX (956) 585-1516

Board of Directors
Homero Tijerina, President
Ivan Sandoval, Vice-President
Maribel Diaz, Secretary
Esmeralda H. Solis, Treasurer
Lloyd Loya, Director
Cesar Rodríguez, Jr., Director
Adolfo Arriaga, Director

October 14, 2021

Via Certified Mail, Return Receipt Requested – 7013 0600 0002 4178 0607

Luana M. Gonzalez, Right of Way Manager
L&G Engineering on behalf of Hidalgo County, Texas
900 S. Stewart Road, Suite 10
Mission, Texas 78572

RE: Counteroffer to January 5, 2021 Offer to Purchase Easement Rights


Ms. Gonzalez:

Thank you for your letter dated January 5, 2021, offering on behalf of Hidalgo County to purchase easement rights owned by Agua Special Utility District (“Agua SUD”) within a parcel of the County’s project with Texas Department of Transportation to construct Liberty Road from US 83 to Mile 3 (the “Offer”). I understand from your letter that you are the Right of Way Manager for L&G Engineering tasked with acquiring the right of way rights on behalf of the County for the County’s project. Your letter stated that based on an appraisal performed prior to the Offer the County was authorized to compensate Agua SUD \$11,480.00 for its easement rights.

Agua SUD respectfully declines the Offer. As you know, property values have dramatically increased in the area since the appraisal on the property was performed. As a result, Agua SUD is confident that the Offer for \$11,480.00 is insufficient compensation for the value of Agua SUD’s easement rights.

Agua SUD hereby submits its counteroffer for \$25,000.00, which is an amount Agua SUD believes adequately compensates it for the fair market value of its easements rights on the subject property. If you wish to accept this counteroffer, please contact me as soon as possible at (956) 585-2459, so that we may arrange payment and conveyance of Agua SUD’s easement rights.

Respectfully,



Robert Salinas
General Manager
Agua Special Utility District

Board of Directors
City of Denver
1501 California Street, Suite 1000
Denver, Colorado 80202
Phone: (303) 733-3300
Fax: (303) 733-3301
www.denvergov.org

Agua Special Utility District
P.O. Box 4070, Lakewood, CO 80226
(303) 985-4000 | Fax (303) 985-4000

October 14, 2021

Dear [Name]:

Thank you for your letter dated [Date] regarding the proposed easement for the Agua Special Utility District (AUSD) project on the property located at [Address].

As discussed in our meeting on [Date], the proposed easement is necessary for the AUSD project.

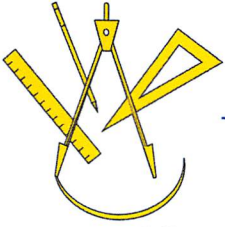
Very truly yours,

I understand your concern regarding the proposed easement for the AUSD project. The proposed easement is necessary for the AUSD project, which is a public utility project. The proposed easement is necessary for the AUSD project, which is a public utility project. The proposed easement is necessary for the AUSD project, which is a public utility project.

Agua Special Utility District (AUSD) respectfully requests that you allow the proposed easement for the AUSD project on the property located at [Address]. The proposed easement is necessary for the AUSD project, which is a public utility project.

As discussed in our meeting on [Date], the proposed easement is necessary for the AUSD project. The proposed easement is necessary for the AUSD project, which is a public utility project. The proposed easement is necessary for the AUSD project, which is a public utility project.

[Signature]
[Name]
[Title]
Agua Special Utility District



L&G Engineering

Transportation Consultants

November 9, 2021

Office of Commissioner
Everardo "Ever" Villarreal
724 Breyfogle Rd. Mission, TX 78572
Phone: (956) 585-4 509

RE: County: Hidalgo
Project: Liberty Road (Section I)
RCSJ No.: 0921-02-372
Parcel No. 16 thru 21 Release of Easements

Dear Commissioner Villarreal:

Attached herewith is a counter-offer as submitted by Agua Special Utility District (Agua SUD) on October 21, 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 for your signature and return.

L & G Engineering believes the counteroffer is a legal and cost savings issue and a timing issue due to the eminent "let" date. 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 **\$25,000.00** 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,

Fred Herrera,
Right of Way Administrator

Attachments
cc:File