



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ:0921-02-364

County: Hidalgo

Highway: Liberty Rd. II

Project Limits: from Mile 3 to SH 107

Parcel No.:14

Owner's Name: Jose M Pena Jr. & Gabriela Suarez

Approved Offer: \$6,970.00

Date Offer Sent: 6/24/2020

Owner's Counteroffer: \$10,644.00

Date Counteroffer Received: 11/5/2021

Factors considered in evaluation:

1. Valuation Issues

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

2. Legal Issues

- a. Analysis of recent court awards on similar properties or projects.
- b. Analysis of recent court decisions which may affect the outcome of a condemnation action.
- c. Analysis of previously unlitigated issues.
- d. Other: _____

3. Cost Savings

- a. Approximate cost to litigate through Special Commissioners' Hearing \$12,000.00
- b. Approximate additional cost to litigate through jury trial \$15,000.00
- c. Other: _____

4. Timing Issues

- a. Maintain project schedule: 9/2022
Possession of this property is needed by: 12/2021
Projected possession date, if settled is: 12/2021
Projected possession date, if condemned is: 05/2022
Letting date: 9/2022
- 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 _____

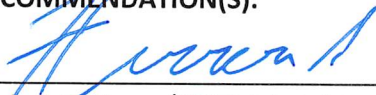
Analysis and Conclusion:

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

Parcel 14 being a 920 square foot or 0.0211 of an acre tract of land situated in the Pedro Flores Survey, Abstract 577 Porcion 77, Hidalgo County, Texas. L & G provided the initial offer packet to property owner on October 10, 2021, the first packet was received. Property owner came back and submitted a counter offer of \$10,644.00 on November 5, 2021. In the counter offer the property owner states that the value should include undervalued improvements and expenses not accounted for in the appraisal, which includes the expenses they incurred in having their concrete drive way installed for egress and ingress from their property. They also feel their property was undervalued and have included that in the counter offer. Therefore, our recommendation is to accept the counteroffer based on the information from the property owner and consultation with the administrative settlement team.

This administrative settlement of \$ 10,644.00 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

November 5, 2021

Novelia Sanchez

L & G Engineering

RE: Parcel # Liberty Rd II

Dear Ms. Sanchez,

We will not be able to accept the offer provided by the County for \$6,970.00, we are not satisfied with the initial offer amount. After investigating with local builders, and realtors in the area, property should be at a land rate of no less than \$3.00 per square foot. There is no change to the concrete drive as indicated in the appraisal report, however, we note that there has been no monetary consideration for the concrete drive area that lies within the existing Right of Way.

Nonetheless, this concrete drive area was built to facilitate the ingress and egress to our residential property during heavy rains, and was built and paid at our expense. It is felt that at least 600 square feet of concrete area should be considered and valued for this facility at the same rate of the part taken.

In view of the items below, if this counter offer is considered, we are willing to consummate this transaction so that the county can move forward with this project, and also avoid the condemnation process. Thank you.

Land = 920 SF @ \$3.00	\$2,760.00
Con. Drive = 616 SF x \$6.50/SF =	\$4,004.00
In Existing ROW 600 x Sf x \$6.50 =	<u>\$3,900.00</u>
Total Counter Offer	\$10,644.00

Jose M Pena Jr., and Gabriela Suarez



TABULATION OF VALUES

Parcel: 14 Highway: **Liberty Road-Phase II** ROW CSJ: **0921-02-364**
 Taking Type: Partial District: Pharr
 Size of Remainder: 0.4789 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)
John M. Pena, Jr., & Gabriela Suarez	Fee Simple	0.0211 Acres/ 920 sf.	\$2,116.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$2,116.00	\$4,004.00	\$0.00	\$850.00	\$6,970.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Drive	Concrete	\$4,004.00	\$1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		Total	\$4,004.00		

TABULATION OF VALUES (continued)

Parcel: 14

Highway: Liberty Road-Phase II

ROW CSJ: 0921-02-364

III. Damages and Enhancements

Total Non-Exempt Damages	Enhancements	Exempt Damages	Net Damages
\$11,348.00	\$0.00	\$850.00	\$850.00

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	\$183,705.00	\$183,705.00
Parcel Area: 920 sf.		
VALUE FOR PARCEL		
Land: per sf. \$2.30	\$2,116.00	\$2,116.00
Easement	\$0.00	\$0.00
Improvements	\$4,004.00	\$4,004.00
Net Damages or (Enhancements)	\$850.00	\$850.00
OAS Value(s)	\$0.00	\$0.00
TOTAL COMPENSATION	\$6,970.00	\$6,970.00

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

TABULATION OF VALUES (continued)

Parcel: 14

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 28, 2020

Parcel 14 is a partial taking of 0.0211 acres (920 sf.) situated in the Pedro Flores Survey, Abstract 577, Porcion 77, out of Lot 125, North Ridge Acres II Subdivision as recorded in Volume 44, Page 181, of the Map Records, Hidalgo County, Texas, said Lot 125 conveyed by Special Warranty Deed with Vendor's Lien, dated November 10, 2006, to Emma Rosa Rodriguez, as described in Document No. 1693145, of the Official Records, Hidalgo County, Texas.

The whole property of 0.50 acres is located along the southeast side of Liberty Road just north of Fir Avenue, Penitas, Texas. The whole property is improved with a single family residence with limited site improvements. The residence is not impacted by the proposed acquisition.

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 determined to provide for necessary fencing along the frontage of the property.

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 \$6,970.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

A retention of \$1.00 is applied to the concrete drive to encourage retention and removal.

TABULATION OF VALUES (continued)

Parcel: 14

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

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

6/1/2020

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

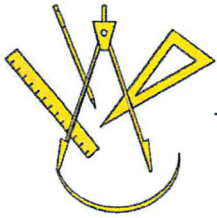
Richard F. Lina
County/City Representative

6/9/20
Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONER'S COURT
ON: *6/9/20* *ms*



L&G Engineering

Transportation Consultants

June 22, 2020

**Via Certified Mail, Return Receipt Requested No.
7018 1130 0002 1336 4222**

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

ROW CSJ: 0921-02-364
Parcel: 14
From: Mile 3
To: FM 2221 (Mile 7)

Jose M. Pena, Jr. & Gabriela Suarez
1903 Sherwood Dr.
Mission, Texas 78572

Dear Mr. Pena & Ms. Suarez.:

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 **\$ 6,970.00** for your property, which includes **\$ 6,120.00** for the property to be purchased and **\$ 850.00** for damages to your remaining property. This amount is the total amount of just compensation for all interests in the portion of your property to be acquired, as determined in accordance with State law, less oil, gas and sulphur, subject to clear title being conveyed to the County. In accordance with State law, it is the policy of the Department/County to negotiate with the fee owner(s) of the real property with the understanding that you will, in turn, negotiate with any lessee or other party who may own any interest in the land or improvements, with the exception of public utility easements, which will be handled separately by the Department/County.

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

	<u>Improvement</u>	<u>Amount to be Subtracted if Retained</u>
A.	Drive - Concrete	\$ 1.00

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.

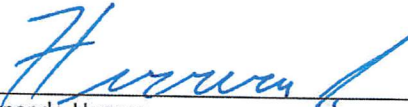
You have the right to discuss with others any offer or agreement regarding the Department's/County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records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

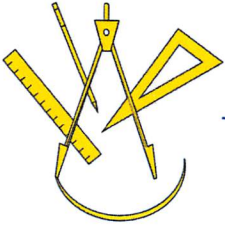
Finally, we enclose copies of all appraisal reports relating to your property being acquired which were prepared in the ten (10) years preceding the date of this offer and produced or acquired by the State/County, including the appraisal on which this offer is based.

Sincerely,



Fernando Herrera,
Right of Way Manager or other signatory

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



L&G Engineering

Transportation Consultants

November 5, 2021

Hon. Everardo "Ever" Villarreal
Attn: Norma Ceballos, R.P.I.C.
Hidalgo County Commissioner, Pct. #3
724 Breyfogle Rd.
Mission TX. 78574

RE: County: Hidalgo
ROW CSJ No. 0921-02-364
Liberty Rd. Phase II
Parcel 14

Dear Commissioner Villarreal:

Attached herewith is a counter-offer as submitted by Jose M Pena Jr., and Gabriela Suarez owners of parcel 14 on 11/5/2021. 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 legal and cost savings issue and a timing issue due to the imminent "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 **\$10,644.00** 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 Herrera Jr.
Right of Way Administrator

Attachments: As noted.