



## HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

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ROW CSJ:0865-01-111

County: Hidalgo

Highway: Liberty Rd. II

Project Limits: from Mile 3 to SH 107

Parcel No.:12

Owner's Name: Diana Tavaréz

Approved Offer: \$6,539.00

Date Offer Sent: 6/23/2020

Owner's Counteroffer: \$10,139.00

Date Counteroffer Received: 12/9/2021

### 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 land.

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: 8/2022  
Projected possession date, if settled is: 03/2022  
Projected possession date, if condemned is: 06/2022  
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 \_\_\_\_\_

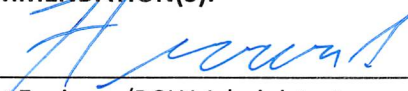
**Analysis and Conclusion:**

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

Parcel 1 being a 0.0458 acres or 1,994 sq ft tract of land situated in Pedro Flores Survey, as recorded in Volume 44, Page 181, of the Map Records, Hidalgo County, Texas. L & G Engineering mailed out an offer on June 23, 2020 in the amount of \$6,539.00. Property owner submitted a counter offer on December 9, 2021 in the amount of \$10,139.00. The property owner states that the value should include undervalued improvements, land due to passage of time, and also states they need to re-established their fence. The difference of (\$3,641.00) does not warrant the risk and added expenses associated with the standard eminent domain proceedings therefore, after consultaion with our evaluations team, our recommendation is to accept the counter-offer based on the information from the property owner.

This administrative settlement of \$ 10,139.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

**RECOMMENDATION(S):**

  
\_\_\_\_\_  
Project Engineer/ROW Administrator

12/29/21  
\_\_\_\_\_  
Date

\_\_\_\_\_  
RPIC/Authorized Pct. Representative

\_\_\_\_\_  
Date

**COUNTY APPROVAL:**

\_\_\_\_\_  
County Judge

\_\_\_\_\_  
Date

December 14, 2021

Diana Tavaréz  
123 Liberty Blvd.  
Penitas, Texas 78576

RE: Offer Letter dated June 22, 2020-Parcel No. 12

L&G Engineering  
Attn: Novelia Sanchez

Dear Ms. Sanchez:

In your offer letter dated 09-02-2020, L & G Engineering offered me \$6,359.00 for my land and improvements. I have reviewed your letter and the appraisal report and reject the offer as per the following reasoning and basis:

- Land value has been adjusted to \$3.25 per sq. ft. due to all three comparable sales indicating "date of sale" of 3-8-2019, 11-6-2018, and 1-2-2020. The present estimated unit value of the fee simple area should be compensated at \$3.25 PSF. 1,994 SF @ \$3.25 PSF=\$6,481.00
- The costs of the improvements on Page 4.0 of the appraisal report should be adjusted as per the below calculations.

Chain Link fence w/Barbed Wire-100 LF X \$12.50 =	\$1,250.00
Oil Pipe Fencing= 21LF X \$9.25 LF=	\$194.00
Steel Pipe Sign Frame 1 X	\$500.00
No change to the caliche drive as per appraisal 427 sf X \$1.00	\$214.00
@ 50% depreciation	<u>\$2,158.00</u>

- Corner clip taking at the Northeast corner of Fir Ave. and Liberty Rd., will result in a Liberty Rd. frontage land area reduction for the exposure of whole property on the "For Sale" real estate market. This diminution of value has been calculated at \$1,500.00 to my remainder land after the ROW taking.

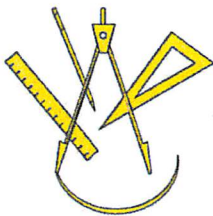
Calculated Values for Parcel No. 12:

Land - 1,994 SF @ \$3.25 -	\$6,481.00
Improvements as above -	\$2,158.00
Diminution in land value -	<u>\$1,500.00</u>
Total Calculated Value -	<u>\$10,139.00</u>

- In consideration of the above noted calculations and the diminution value to my remainder land; my counter offer for the acquisition of parcel No. 12 is at \$10,139.00. Should this amount be considered and approved, I am ready to execute the necessary conveyance documents for the acquisition of the right of way taking

Sincerely,

  
Diana Tavaréz



# L&G Engineering

Transportation Consultants

June 22, 2020

**Via Certified Mail, Return Receipt Requested No.  
7018 1130 0002 1336 4208**

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

ROW CSJ: 0921-02-364  
Parcel: 12  
From: Mile 3  
To: FM 2221 (Mile 7)

Diana Tavaréz  
1300 Jade St.  
Penitas, Texas 78576

Dear Ms. Tavaréz:

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 **\$ 6,539.00** for your property, which includes **\$ 6,070.00** for the property to be purchased and **\$ 469.00** 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 – Chain Link	\$ 1.00
B. Fence – Oil Pipe	\$ 1.00
C. Sign – Metal Frame	\$ 1.00
D. Drive - Caliche	\$ 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.

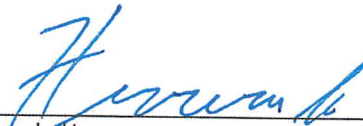
You have the right to discuss with others any offer or agreement regarding the Department's/County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records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

Parcel: 12

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	\$469.00	\$469.00

**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
<b>Total</b>			\$0.00	\$0.00	

**V. Recapitulation**

<b>Date:</b>	5/5/2020			<b>Recommended Value</b>
<b>Appraiser's Name:</b>	Leonel Garza III			
<b>Value of Whole Property</b>	\$85,643.00			\$85,643.00
<b>Parcel Area: 1,994 sf.</b>				
<b>VALUE FOR PARCEL</b>				
<b>Land: per sf. \$2.30</b>	\$4,586.00			\$4,586.00
<b>Easement</b>	\$0.00			\$0.00
<b>Improvements</b>	\$1,484.00			\$1,484.00
<b>Net Damages or (Enhancements)</b>	\$469.00			\$469.00
<b>OAS Value(s)</b>	\$0.00			\$0.00
<b>TOTAL COMPENSATION</b>	\$6,539.00			\$6,539.00

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

**TABULATION OF VALUES (continued)**

Parcel: 12

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 12 is a partial taking of 0.0458 acres (1,994 sf.) situated in the Pedro Flores Survey, Abstract 577, Porcion 77, out of Lot 123, North Ridge Acres II Subdivision as recorded in Volume 44, Page 181, of the Map Records, Hidalgo County, Texas, conveyed by Special Warranty Deed with Vendor's Lien, dated January 7, 2010, to Diana Tavaréz as described in Document No. 2075826, of the Official Records, Hidalgo County, Texas.

The whole property of 0.7909 acres is located the northeast corner of Liberty Road and Fir Avenue, Penitas, Texas. The whole property is improved with residential site improvements with no main buildings on the whole property.

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 fencing items 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 \$6,539.00 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: 12

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

Henry L. Johnson  
Contract Reviewing Appraiser (if applicable)

\_\_\_\_\_  
5/31/2020  
Date

\_\_\_\_\_  
Division Reviewing Appraiser (if applicable)

\_\_\_\_\_  
Date

X. Approval of Values

Richard E. Lova  
County/City Representative

6/9/20  
Date

\_\_\_\_\_  
ROW Staff Representative

\_\_\_\_\_  
Date

APPROVED BY  
COMMISSIONERS' COURT  
ON: 6/9/20 grs



REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: NE Corner Fir Avenue & Liberty Road, Peñitas, Texas 78576 District: 21  
Property Owner: Diana Tavaréz Parcel: 12  
Address of Property Owner: 1300 Jade St. Penitas, Texas 78576 ROW CSJ: 0921-02-364  
Occupant's Name: Diana Tavaréz 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 \$6,539 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 Diana Tavaréz, 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 82<sup>nd</sup> 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;

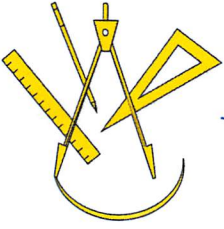
That I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved;

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.  
*Harvey L. Heersaen* 5/31/2020  
Reviewing Appraiser Date





# L&G Engineering

Transportation Consultants

December 29, 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. Seg. II  
Parcel No.12 – Property Owner – Diana Tavaréz

Dear Commissioner Villarreal:

Attached herewith is a counter-offer as submitted by Ms. Diana Tavaréz, property owner of Parcel 12 on December 29, 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 **\$10,139.00** 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.

*1-1315-431-00-123-136-0-710*