

L&G Engineering

Transportation Consultants

April 7, 2022

Eduardo "Eddie" Cantu
Hidalgo County Commissioner, PCT #2
300 W. Hall Acres, Ste. G
Pharr, Tx 78577

RE: County: Hidalgo
ROW CSJ No. 0921-02-404
Eldora Road: From Jackson Road To Veterans Blvd. (I Road)
Parcel No. 13

Dear Commissioner Cantu:

Attached herewith is a counter-offer as submitted by Crisanto & Yolanda Garcia owner of Parcel 13 on February 4, 2022. Brighton Group has reviewed the aforementioned and recommends that counteroffer **be approved**. Attached also is the N-9, Administrative Settlement Evaluation and Approval Form.

Brighton Group 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 **\$6,500.00** be accepted.

Please review these documents and feel free to contact me at (956)603-2005 if you wish to discuss this matter personally.

Sincerely,

Fernando "Fred" Herrera
Right of Way Administrator

cc: File
Attachments



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0921-02-404

Highway: El Dora Road

Parcel No.: 13

Owner's Name: Crisanto & Yolanda Garcia

Approved Offer: \$1,667.00

Owner's Counteroffer: \$6,500.00

County: Hidalgo

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

Date Offer Sent: 10/25/2021

Date Counteroffer Received: 2/04/2022

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
- b. Other: Property owner feels that their improvements were 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: 3/2022
Projected possession date, if settled is: 4/2022
Projected possession date, if condemned is: 08/2022
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 _____

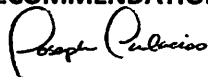
Analysis and Conclusion:

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

Parcel 13 is 112 sq. ft. or 0.003 of one acre tract of land situated in Hidalgo County, Texas and being in Lot 31, Crown Point Estates Phase I, as recorded in Volume 29, page 132. Parcel 13 has an easement with HCID #2 within the acquisition. On October 25, 2021 Brighton Group, Acquisition Provider for the County, made an offer of \$1,407.00 to owners of record, Mr. & Mrs. Garcia, via certified mail. After numerous attempts to make contact with owner on February 4, 2022 Mr. Ramon Vega, Attorney for Mr. & Mrs. Garcia submitted a counteroffer for County's consideration. Mr. & Mrs. Garcia have requested an additional \$5,093.00. They feel that their improvements were severely undervalued more specifically their oak tree. The Garcia's feel that once construction begins that this will have a negative impact on the life of their tree. They felt that the consideration of value for their oak tree was not enough to replace their oak tree to its current state. After discussion and review by the evaluation team, it is the recommendation that the administrative settlement be approved. The difference between the approved value of \$1,407.00 versus the property owner's counter offer is \$5,093.00. This amount does not warrant the risk and added expenses associated with standard eminent domain proceedings. Accepting this counteroffer will help avoid project time delays, and associated condemnation proceedings, thus resulting in a cost savings to the County.

This administrative settlement of \$6,500.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator

2/28/2022

Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

LAW OFFICE OF RAMON VEGA III, PLLC
1012 Martin Ave. – Ste. C
McAllen, Texas 78504
Ph. (956) 664-8006 Fax (956) 664-8005

email: rvega@vegalawoffice.net

February 1, 2022

Via email: alice@brightongroup.org
Brighton Group
2805 Fountain Plaza Blvd. – Ste. A-2
Pharr, Texas 78577

Re: Purchase of 112 Sq. Ft. or 0.003 of one acre tract of land, situated in Lot 31, Crown Point Estates Phase I, as recorded in Vol. 29, Page 132, Deed Records, Hidalgo County, Texas (the “Property”)

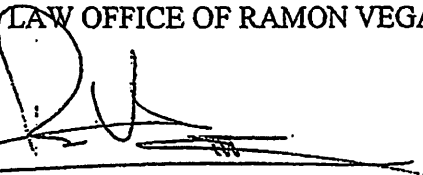
Dear Alice:

Please be advised that I represent Ms. Garcia regarding the above-described matter. I am in receipt of your initial offer of \$1,407.00 dated October 25, 2021. The tree alone (which I sent you a picture of) is easily worth five times as much. Nevertheless, my client would like to counteroffer at \$6,500.00 for the Departments purchase of the Property.

Please feel free to call me if any questions. Thank you.

Respectfully Submitted,

LAW OFFICE OF RAMON VEGA III, PLLC

A handwritten signature in black ink, appearing to be 'R. Vega III', written over a horizontal line.

Ramon Vega III



BRIGHTON GROUP

Date: October 25, 2021

2805 Fountain Plaza Blvd., Ste A-2 Edinburg, TX 78539

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

ROW CSJ: 0921-02-404
Parcel ID: 13
From: Jackson Road
To: Veterans Blvd (I Road)

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED NO. 7020 1290 0001 2259 0060

Crisanto & Yolanda Garcia
PO Box 270
Pharr, TX 7857-1605

Dear Mr. & Mrs. Garcia,

In acquiring property for the highway system of Texas, the Texas Department of Transportation (the "Department") and Hidalgo County (the "County") follows 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, Joseph Palacios, 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 \$1,407.00 for your property, which includes \$1,407.00 for the property to be purchased and \$0.00 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 Department/County 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 Department/County to acquire the real property by eminent domain.

<u>Improvement</u>	<u>Amount to be Subtracted if Retained</u>
A. Landscaping-Oak Tree, Plants & Bricks	\$1.00

If you wish to accept the offer based upon this appraisal, please contact me as soon as possible, at (956) 603-2005, 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.

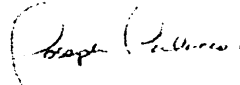
You have the right to discuss with others any offer or agreement regarding the Department's/County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records Act) as it may apply 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 County's offer or proposed purchase transaction. Also, please do not hesitate to contact me 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,



Right of Way Manager or other signatory

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

REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: 3700 North Silver Lane, Pharr, Texas 78577 District: 21
 Property Owner: Crisanto & Yolanda Garcia Parcel: 13
 Address of Property Owner: PO Box 270, Pharr, Texas 78577 ROW CSJ: 0921-02-404
 Occupant's Name: Crisanto Garcia & Yolanda Garcia 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 \$1,667.00 as of November 23, 2020, based upon my independent appraisal and the exercise of my professional judgment;

That on November 23, 2020, I personally inspected in the field the property herein appraised; that I afforded Crisanto & Yolanda Garcia, 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 December 28, 2020;

That I have not revealed and will not reveal the findings and results of such appraisal to anyone other than The Brighton Group and the proper officials 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: September 1, 2021

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> Reviewing Appraiser	9/6/2021 Date



TABULATION OF VALUES

Parcel: 13 Update Highway: Eldora Road ROW CSJ: 0921-02-404
 Taking Type: Partial District: Pharr
 Size of Remainder: 0.217 Acres County: Hidalgo
 Type of Property: Improved/Residential Federal Project: N/A
 Contract Fencing: N/A
 Appraised by Leonel Garza III
 Date Appraised: 11/23/2020

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. 2	20%	ROW Acquisition Expenses

Interest Owner	Acquisition Interest	Land Area	Value	Lease (Y/N)
Crisanto & Yolanda Garcia Hidalgo County Irrigation District No. 2	Fee Simple Easement	112 sf.	\$300.00	No
		104 sf.	260.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$560.00	\$1,107.00	\$0.00	\$0.00	\$1,667.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Landscaping	Oak Tree, Plants & Bricks	\$1,107.00	\$1.00	N/A

TABULATION OF VALUES (continued)

Parcel: 13 Update

Highway: Eldora Road

ROW CSJ: 0921-02-404

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:	11/23/2020 Updated Appraisal	11/23/2020 Original Appraisal	Recommended Value
Appraiser's Name:	Leonel Garza III	Leonel Garza III	
Value of Whole Property	\$157,764.00	\$157,764.00	\$157,764.00
Parcel Area: 112 sf.			
VALUE FOR PARCEL			
Land: per sf. 8@ Unenc. @ \$5.00 sf. & 104- Encumbered @ \$2.50 sf	\$40.00 260.00	\$560.00	\$40.00 260.00
Easement 104 sf. \$2.50	\$260.00	\$0.00	\$260.00
Improvements	\$1,107.00	\$1,107.00	\$1,107.00
Net Damages or (Enhancements)	\$0.00	\$0.00	\$0.00
OAS Value(s)	\$0.00	\$0.00	\$0.00
TOTAL COMPENSATION	\$1,667.00	\$1,667.00	\$1,667.00

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

TABULATION OF VALUES (continued)

Parcel: 13 Update

Highway: Eldora Road

ROW CSI: 0921-02-404

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: Leonel Garza III
Effective Date of Updated Report: November 23, 2020
Updated Report Dated: September 1, 2021
Review Appraiser: Harvey L. Heerssen
Effective Date of Updated Review: September 5, 2021

Parcel 13 has been updated to separate the easement interest owned by Hidalgo County Irrigation District No. 2 from the appraised value of the part taken. Please see 1st highlighted paragraph below.

Parcel 13 is a partial taking of 0.003 acres (112 sf.) situated in Lot 31, Crown Point Estates Phase I, as recorded in Volume 29, Page 132, of the Map Records, Hidalgo County, Texas, said Crown Park Estates Phase I being out of Lot 118, Kelly-Pharr Subdivision, as recorded in Volume 3, Page 133, of the Deed Records, Hidalgo County, Texas, said Lot 31 conveyed to Crisanto Garcia and wife Yolanda Garcia by a Warranty Deed with Vendor's Lien dated March 30, 1996 and recorded on April 19, 1996, as described in Document Number 517810, of the Official Records, Hidalgo County, Texas.

The whole property of 0.22 acres is located along the north line of Eldora Road being the northeast corner of Diamond Lane and Eldora Road, Pharr, Texas. The subject whole property is improved with a single family residence and related site improvements. The residence is not impacted by the proposed acquisition. Landscaping items within the acquisition are valued accordingly.

The appraiser Leonel Garza III has selected three (3) recent sales to value the whole tract at \$5.00 per sf. The highest and best use is for residential purposes. The acquisition is encumbered by an easement owned by Hidalgo County Irrigation District No. 2. Since the fee owner does not enjoy the full bundle of rights within the easement area, the appraiser estimates that the amount of rights taken amount to 50% of the fee value of \$5.00 or \$2.50 per sf. Thus, the encumbered fee portion is valued \$2.50 sf, and the utility easement is also valued at 50% or \$2.50 per sf. There are no market damages to the remainder land.

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 updated 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' updated opinion and conclusions appear to be well supported by information contained within this updated appraisal report. It is recommended that the total updated value of \$1,667.00 be approved for continuing negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

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

TABULATION OF VALUES (continued)

Parcel: 13 Update

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



9/6/2021

Contract Reviewing Appraiser (if applicable)

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values



9/29/21

County/City Representative

Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS COURT
ON: 3/9/21 