

# L&G Engineering

June 28, 2022

Transportation Consultants

The Honorable Eduardo "Eddie" Cantu  
Commissioner, Pct. 2  
c/o Armando Garza Jr.  
300 West Hall Acres  
Pharr, Texas 78577

RE: County: Hidalgo  
Hwy.: East Nolana Loop  
Limits: From: N. Raul Longoria To: N. Alamo Road  
ROW CSJ No. 0921-02-421  
Parcel No.: 11

Dear Commissioner Cantu:

Attached herewith is a counter-offer as submitted by Paul Obst and wife, Joyce Obst, owner of Parcel 11 on June 28, 2022. 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 valuation, legal and cost savings issue. 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 **\$74,616.00** 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.

cc: File

P2 ADMIN  
2022 JUN 28 PM4:14



## HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

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ROW CSJ: 0921-02-421

County: Hidalgo

Highway: East Nolana Loop

Project Limits: From: N. Raul Longoria To: N. Alamo Road

Parcel No.: 11

Owner's Name: Paul Obst and wife, Joyce Obst

Approved Offer: \$71,416.00

Date Offer Sent: 5/31/2022

Owner's Counteroffer: \$74,616.00

Date Counteroffer Received: 6/28/2022

### Factors considered in evaluation:

#### 1. Valuation Issues

- a.  Reconciliation of all available appraisals, including Owner's.
- b.  Other: Property owner's believes that their Citrus Trees 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: 7/2022  
Projected possession date, if settled is: 8/2022  
Projected possession date, if condemned is: 12/2022  
Letting date: 9/2023
- b.  Other: \_\_\_\_\_

#### 5. Other Issues

- Subjecting this parcel through the process of Condemnation 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 \_\_\_\_\_

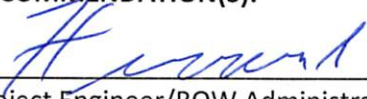
**Analysis and Conclusion:**

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

Parcel 11 is a partial acquisition being a 1.516 acre (66,035 square feet) parcel of land being situated in Lot 15, Block 48, of the Alamo Land and Sugar Company Subdivision, recorded in Volume 1, Page 24, of the Map Records of, Hidalgo, County, Texas. On May 31, 2022, Acquisition Provider, L & G Engineering, mailed an initial offer letter of \$71,416.00 to Mr. and Mrs. Obst (property owners), via certified mail. I made contact with Mr. & Mrs. Obst office Manager (Jeanie) and the Obst believe their 128 Citrus Trees were undervalued at \$250.00 per tree. The Obst are counter offering at \$275.00 per tree in the amount of \$74,616.00 a difference of \$3,200.00. After discussion and review by the evaluation team, it is the recommendation that the administrative settlement be approved. Although the property owner did not provide salient information, it 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 county.

This administrative settlement of \$ 74,616.00  is /  is not recommended for approval as being reasonable, justified, prudent and in the public interest.

**RECOMMENDATION(S):**

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

6/28/2022  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

**COUNTY APPROVAL:**

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

\_\_\_\_\_  
Date

**TABULATION OF VALUES**

Parcel: 11 Update Highway: East Nolana Loop ROW CSJ: 0921-02-361  
 Taking Type: Partial District: PHR  
 Size of Remainder: 18.484 Acres County: Hidalgo  
 Type of Property: Res-SFR Federal Project: N/A  
 Contract Fencing: N/A  
 Appraised by Leonel Garza III  
 Effective Date of Updated Appraisal 9/10/2022  
 Date Updated Appraisal Signed: 3/14/2022

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)
Paul & Joyce Obst South Texas Electrical Cooperative	Fee Simple	1.2128 Acres Net Acquisition	\$39,416.00	No
	Easement	0.4548 Acres	\$9,096.00	No
	Existing ROW	0.3032 Acres	\$0.00	No

**I. Appraised Values**

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$48,512.00	\$32,000.00	\$0.00	\$0.00	\$80,512.00

**II. Improvements**

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Landscaping	Citrus Trees -128	\$32,000.00	\$1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		<b>Totals</b>	<b>\$32,000.00</b>	<b>\$1.00</b>	

**TABULATION OF VALUES (continued)**

Parcel: 11 Update

Highway: East Nolana Loop

ROW CSJ: 0921-02-361

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

**V. Recapitulation**

Date:	3/10/2022 Updated Appraisal	12/28/2020 Original Appraisal		Recommended Value
Appraiser's Name:	Leonel Garza III	Leonel Garza III		
Value of Whole Property	\$819,872.00	\$780,478.00		\$819,872.00
Parcel Area: 1.2128 Ac. Net				
<b>VALUE FOR PARCEL</b>				
Land: per ac. \$40,000 - Unencumbered 0.758 ac. @ 40,000 per Acre & 0.4548 ac @ 20,000 per acre,	\$30,320.00	\$46,086.00		\$30,320.00
	\$9,096.00			\$9,096.00
Easement 0.4548 Ac. @ \$20,000 per Ac..	\$9,096.00	\$0.00		\$9,096.00
Improvements	\$32,000.00	\$32,000.00		\$32,000.00
Net Damages or (Enhancements)	\$0.00	\$0.00		\$0.00
OAS Value(s)	\$0.00	\$0.00		\$0.00
<b>TOTAL COMPENSATION</b>	<b>\$80,512.00</b>	<b>\$78,086.00</b>		<b>\$80,512.00</b>

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

**TABULATION OF VALUES (continued)**

Parcel: 11 Update

Highway: East Nolana Loop

ROW CSJ: 0921-02-361

**VI. Comments and Conclusions on Values in the Appraisal Report**

**Appraiser: Leonel Garza III**  
**Effective Date of Updated Report: March 10, 2022**  
**Updated Report Dated: March 14, 2022**  
**Review Appraiser: Harvey L. Heerssen**  
**Effective Date of Updated Review: April 5, 2022**

Parcel 11 has been updated to reflect current market value for the land. Three more recent sales are used to indicate a unit land value of \$40,000 per acre, an increase of \$2,000 per acre. Additionally, the easement owned by South Texas Electric Cooperative has been separated from the land value to indicate a value for the unencumbered portion the encumbered portion and the value for the easement owner. The original appraisal reflected a value of \$78,086.00 that has been increased to \$80,512.00 in this update.

Parcel 11 is a partial taking of 1.516 gross acres (66,035 gross sq. ft.) situated in Lot 15, Block 48, of the Alamo Land and Sugar Company, recorded in Volume 1, Page 24, of the Hidalgo County Map Records, and being out of a called 20.00 acre tract of land (East ½) of Lot 15 Block 48) described in an instrument to Paul Obst and wife Joyce Obst from August F. Wiese and wife Esther G. Weise, recorded in Document Number 914312, Official Records of Hidalgo County, Texas, dated October 16, 2000, Hidalgo County, Texas.

The whole property of 15 gross acres is located along the north line of East Nolan Loop (East Earling Road) approximately 0.25 miles west of Alamo Road, Alamo, Texas. The whole tract is vacant land. The acquisition of 1.516 gross acres includes an amount of 0.3032 acres within the existing right of way having no value and leaving a net acquisition of 1.2128 acres. The acreage within the existing right of way is shown in the field notes for this parcel.

In this update, the appraiser has selected three (3) recent sales to value the whole tract at \$40,000 per acre. The highest and best use is for residential development purposes. There are one hundred twenty eight (128) citrus trees within the acquisition and are appraised accordingly. There are no market damages to the remainder land and no cost to cure.

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 \$80,512.00 be approved for continuing negotiations and acquisition.

**VII. Justification and Explanation for Credit if Retained.**

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

TABULATION OF VALUES (continued)

Parcel: 11 Update

Highway: East Nolana Loop

ROW CSJ: 0921-02-361

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. Newman  
Contract Reviewing Appraiser (if applicable)

\_\_\_\_\_  
4/25/2022

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

X. Approval of Values

Richard J. Curb  
County/City Representative

5-11-22  
Date

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

\_\_\_\_\_  
Date

APPROVED BY  
COMMISSIONERS COURT  
ON: 3/30/22 BMS

B

**REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION**

Address of Property: Nolana Loop 0.25 miles west of Alamo Road, Alamo, Texas	District: 21
Property Owner: Paul & Joyce Obst	Parcel: 11
Address of Property Owner: 1520 North Alamo Road, Alamo, Texas 78516	ROW CSJ: 0921-02-361
Occupant's Name: Paul Obst & Joyce Obst	Federal Project No: N/A
Whole: <input type="checkbox"/> Partial: <input checked="" type="checkbox"/> Acquisition	Highway: East Nolana Loop 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 \$80,512 as of March 10, 2022, based upon my independent appraisal and the exercise of my professional judgment;

That on March 10, 2022, I personally inspected in the field the property herein appraised; that I afforded Paul & Joyce Obst, 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 March 10, 2022;

That I have not revealed and will not reveal the findings and results of such appraisal to anyone other than L&G Consulting Engineers, Inc. and or the proper officials of 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 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 .

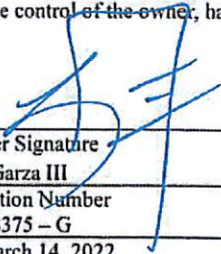
I certify to the best of my knowledge and belief:

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: March 14, 2022

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>	4/25/2022
Reviewing Appraiser	Date




June 28, 2022

Paul Obst  
Joyce Obst  
1520 N. Alamo Rd.  
Alamo, Texas 78516  
956-781-3542

Mr. Casarez:

After careful consideration regarding the County's offer of \$71,416.00 for the 1.516 of an acre (66,035 sq.ft.), located at Nolana Loop 0.25 miles West of Alamo Road, Alamo, Texas, also known as Parcel 11, we respectfully decline your offer. Being in the business of Citrus Trees and conferring with other grove owners and family members. I am willing to accept a total of \$74,616.00 which is a difference of \$3,200 from the original offer. We will sign the required paperwork for the expansion of the road and in order to avoid any litigation. We would appreciate the approval of my counter offer of \$74,616.00 in order to avoid any future delays. If you have any questions please call me at the above phone number.

Sincerely,

  
\_\_\_\_\_  
Paul Obst                      6/27/22  
Date

  
\_\_\_\_\_  
Joyce Obst                      6/27/22  
Date

**RECEIVED**  
6-28-2022