

L&G Engineering

Transportation Consultants

July 19, 2022

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.: 12

Dear Commissioner Cantu:

Attached herewith is a counter-offer as submitted by Thomas Garcia & Margarita S. Garcia, owners of Parcel 12 on July 19, 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 **\$165,028.33** 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



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0921-02-421

Highway: East Nolana Loop

Parcel No.: 12

Owner's Name: Thomas Garcia & Margarita S. Garcia

Approved Offer: \$ 159,986.00

Owner's Counteroffer: \$ 165,028.33

County: Hidalgo

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

Date Offer Sent: 6/2/2022

Date Counteroffer Received: 7/19/2022

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
- b. Other: Property owner found missed improvements and cost increased for materials.

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: 8/2022
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

- It appears that the property owner's counteroffer is within an acceptable value. 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 _____

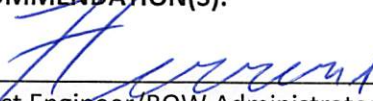
Analysis and Conclusion:

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

Parcel 12 is a partial acquisition being a 2, 916 acre (127,000 square feet) parcel of land situated in Lot 14, 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 June 1, 2022, Acquisition Provider, L & G Engineering, sent an initial offer letter of \$159,986.00 to property owners: Thomas Garcia and Margarita S. Garcia, via certified mail. I met with Mr. Garcia and during our negotiations and meeting with Mrs. Garcia, they were concerned of the missed improvements such as the private irrigation pipes and the pecan tree. The property owners provided a cost estimate for trenching, installation materials and labor fees. With that said, the property owners submitted a counter offer in the amount of \$165,028.33 and after further discussion and review by the evaluation team, it is the recommendation that the administrative settlement be approved. The difference between the approve value versus the property owner's counter offer is (a difference of \$5,042.33). The property owner did provided cost estimates in the counter offer and 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 \$ 165,028.33 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator

7/19/22

Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

TABULATION OF VALUES

Parcel: 12 Update Highway: East Nolana Loop ROW CSJ: 0921-02-361
 Taking Type: Partial District: Pharr
 Size of Remainder: 12.084 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 Appraised: 3/10/2022
 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)
Thomas & Margarita S. Garcia South Texas Electric Cooperative	Fee Simple	2.3513 Acres Net Acquisition	\$101,298.00	No
	Easement	0.6507 Acres	\$16,268.00	No
	Existing ROW	0.5647 Acres	\$0.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$117,566.00	\$56,219.00	\$0.00	\$2,469.00	\$176,254.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Residence	Wood Frame-1,538 SF.	\$24,031.00	\$1.00	N/A
B.	Carport	Corrugated Metal Roof-720 SF.	2,700.00	1.00	N/A
C.	Storage	Cinder Block Masonry -288 SF.	504.00	1.00	N/A
D.	Coop	Chicken Wire- 1-Unit	250.00	1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisecton Category
E.	Enclosure	Large Bird-\$300 1-Unit	150.00	\$1.00	N/A
F.	Enclosure	Small Bird-\$150 -1 Unit	75.00	1.00	N/A
G.	Gates	Wrought Iron Rolling-2 EA.	\$4,250.00	1.00	N/A
H.	Gates	Wrought Iron Swing-3 EA.	1,125.00	1.00	N/A
I.	Door	Wrought Iron-1 Unit	263.00	1.00	N/A
J.	Fence	Wrought Iron 10 LF.	723.00	1.00	N/A
K.	Gate	Chain Link Swing 1 Unit	188.00	1.00	N/A
L.	Enclosure	Cattle Pen 54 -SF	810.00	1.00	N/A
M.	Fencing	Ranch-2,030 LF.	4,568.00	1.00	N/A
N.	Posts	Steel Pipe-2 EA.	150.00	1.00	N/A
O.	Posts	Telephone Fence- 6 EA.	300.00	1.00	N/A
P.	Spigots	Water Galvanized- 4 EA.	225.00	1.00	N/A
Q.	Fence	Electric Wire- 1,000 LF.	563.00	1.00	N/A
R.	Sidewalk	Concrete-75 SF.	244.00	1.00	N/A
S.	Tank	Septic-1-EA.	1,250.00	1.00	N/A
T.	Canopy	Small Feeding Animal	100.00	1.00	N/A
U.	Trough	Water- 1 EA	50.00	1.00	N/A
V.	Landscaping	Trees & Shrubs, Cactus-27 EA.	13,700.00	1.00	N/A
Totals			\$56,219.00	\$22.00	

TABULATION OF VALUES (continued)

Parcel: 12 Update

Highway: East Nolana Loop

ROW CSI: 0921-02-361

III. Damages and Enhancements

Total Non-Exempt Damages	Enhancements	Exempt Damages	Net Damages
\$0.00	\$0.00	\$2,469.00	\$2,469.00

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
Total			\$0.00	\$0.00	

V. Recapitulation

Date:	3/10/2022 Updated Appraisal	3/15/2021 Original Appraisal		Recommended Value
Appraiser's Name:	Leonel Garza III	Leonel Garza III		
Value of Whole Property	\$794,812.00	\$722,635.00		\$794,812.00
Parcel Area: 2.3513 Ac. Net				
VALUE FOR PARCEL				
Land: per ac. \$50,000- 1.7006 Ac. Unencumbered & 0.6507 Ac. Encumbered @ \$25,000/Ac.	\$85,030.00	\$105,809.00		\$85,030.00
	\$16,268.00			\$16,268.00
Easement -0.6507 Ac. @ \$25,000/Ac.	\$16,268.00	\$0.00		\$16,268.00
Improvements	\$56,219.00	\$56,219.00		\$56,219.00
Net Damages or (Enhancements)	\$2,469.00	\$2,469.00		\$2,469.00
OAS Value(s)	\$0.00	\$0.00		\$0.00
TOTAL COMPENSATION	\$176,254.00	\$164,497.00		\$176,254.00

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

TABULATION OF VALUES (continued)

Parcel: 12 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 12 has been updated to reflect current market value for the land. Three more recent sales are used to indicate a unit land value of \$50,000 per acre, an increase of \$5,000 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 \$164,497.00 that has been increased to \$176,254.00 in this update.

Parcel 12 is a partial taking of 2.916 gross acres (127,000 gross sf.) situated in Lot 14, Block 48, of the Alamo Land and Sugar Company Subdivision recorded in Volume 1, Page 24, of the Hidalgo County Map Records, and being out of a called 15.00 acre tract of land described in an instrument to Thomas Garcia and Margarita S. Garcia from Samuel Soto and wife Guadalupe B. Soto, recorded in Document Number 367339, January 27, 1994, Official Records of Hidalgo County, Texas,

The whole property of 15.00 gross acres is located at the northwest corner of East Nolana Loop and North Alamo Road Alamo, Texas. The whole tract is improved with a single family residence and many related site improvements. The residence and other improvements are within the proposed acquisition and are appraised accordingly. The acquisition of 2.916 gross acres includes an amount of 0.5647 acres within the existing right of way having no value and leaving a net taking of 2.3513 acres. The acreage within the existing right of way is shown in the field notes for this parcel. The property is also encumbered with a South Texas Electrical Cooperative.

In this update, the appraiser has selected three (3) recent sales to value the whole tract at \$50,000 per acre. The highest and best use is for residential/commercial purposes. There are no market damages to the remainder land. Cost to cure is necessary to compensate for the 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 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 \$176,254.00 be approved for continuing 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 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

George L. McMan

Contract Reviewing Appraiser (if applicable)

4/28/2022

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

Debra D. L. L. L.

County/City Representative

5-11-22

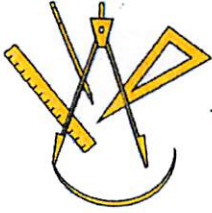
Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS COURT
ON: 3/30/22 BAS.

8



L&G Engineering

Transportation Consultants

May 26, 2022

County: Hidalgo
Federal Project No.: N/A
Highway: East Nolana Loop

ROW CSJ: 0921-02-421
Parcel ID: 12
From: FM 1426 (Raul Longoria Road)
To: FM 907 (Alamo Road)

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED NO. 7020 0090 0001 6880 2801

Thomas Garcia
Margarita S. Garcia
1917 Oriole Avenue
McAllen, Texas 78504

Dear Mr. & Mrs. Garcia,

In acquiring property for the highway system of Texas, the Texas Department of Transportation (the "Department") and Hidalgo County ("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, Robert A. Casarez, a portion of your property located East Earling 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 **\$159,986.00** for your property, which includes **\$157,517.00** for the property to be purchased and **\$2,469.00** 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 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 County to acquire the real property by eminent domain.

<u>Improvement</u>	<u>Type</u>	Amount to be Subtracted if <u>Retained</u>
A. Residence	Wood Frame – 1,538 SF.	\$1.00
B. Carport	Corrugated Metal Roof -2,700 SF.	\$1.00
C. Storage	Cinder Block Masonry – 288 SF.	\$1.00
D. Coop	Chicken Wire 1-Unit	\$1.00
E. Enclosure	Large Bird - \$300 – 1 Unit	\$1.00
F. Enclosure	Small Bird - \$150 – 1 Unit	\$1.00
G. Gates	Wrought Iron Rolling – 2 EA.	\$1.00

H. Gates	Wrought Iron Swing – 3 EA.	\$1.00
I. Door	Wrought Iron – 1 Unit	\$1.00
J. Fence	Wrought Iron 10 LF	\$1.00
K. Gate	Chain Link-Swing 1 Unit	\$1.00
L. Enclosure	Cattle Pen 54 – SF	\$1.00
M. Fencing	Ranch – 2,030 LF.	\$1.00
N. Posts	Steel Pipe – 2 EA.	\$1.00
O. Posts	Telephone Fence – 6 EA.	\$1.00
P. Spigots	Water Galvanized – 4 EA.	\$1.00
Q. Fence	Electric Wire – 1,000 LF.	\$1.00
R. Sidewalk	Concrete – 75 SF.	\$1.00
S. Tank	Septic – 1 EA.	\$1.00
T. Canopy	Small Feeding Animal	\$1.00
U. Trough	Water – 1 EA.	\$1.00
V. Landscaping	Trees & Shrubs, Cactus – 27 EA.	\$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 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.

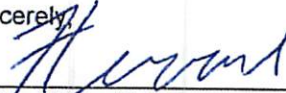
You have the right to discuss with others any offer or agreement regarding the Department's/County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records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

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 Fernando Herrera, Jr. 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,

A handwritten signature in blue ink, appearing to read "H. Wood", written over a horizontal line.

Right of Way Manager or other signatory

ENCLOSURES:

Appraisal Report(s)

Landowner Bill of Rights

Brochure ("Right of Way Purchase")

July 19, 2022

Thomas Garcia
Margarita S. Garcia
1917 Oriole Avenue
McAllen, Texas 78504
956-330-4018

Dear Mr. Casarez:

I have reviewed the offer on the piece of property located at 1601 N. Alamo Rd. Alamo, Texas, also referred to as Parcel 12. We do not agreed with the amount of \$159,986.00 you are offering, so I am rejecting the offer. The reason for not accepting the original offer is because of the following:

- 1) missed the 10" PVC Irrigation Pipe and the cost to replace it comes to \$2,176.33 (see copy of invoice included)
- 2) missed a mature pecan tree and going by the other pecan tree listed on the appraisal report, it is worth \$500.00.
- 3) Trench for pipe installation and labor: \$1,975.00 (see cost estimate)
- 4) Trough PVC Pipe 305' plus materials: \$391.00

I am willing to accept a total of \$165,028.33 which is a difference of \$5,042.33 from the original offer. I will transfer the required property for the expansion of the road and in order to avoid any litigation, I would appreciate the approval of my counter offer of \$165,028.33 so that we can continue moving forward. If you have any questions please call me at the above phone number.

Sincerely,



Thomas Garcia



Margarita S. Garcia

RECEIVED
7-19-2022

IRRIGATION-MART

we SAVVY irrigation

QUOTATION

Quote Number	1399167
Quote Date	06/13/2022 15:49:20
Page	1 of 1

Quote Expires On: 07/13/2022

701 East Expressway 83
 San Juan, TX 78589-5132
 956-781-6651; FAX 956-781-0625
 www.IRRIGATION-MART.com

Bill To:
 TM CATTLE CO
 1917 ORIOLE AVE
 MCALLEN, TX 78504

956-330-4018

Ship To:
 TM CATTLE CO
 1917 ORIOLE AVE
 MCALLEN, TX 78504

956-330-4018

Customer ID: 76411

Requested By: Mr. THOMAS GARCIA
 956-330-4018

PO Number					Carrier	Taker		
PVC 10						ISAAC.RODRIGUEZ		
Quantities					Item ID Item Description	Pricing UOM	Unit Price	Extended Price
Ordered	Allocated	Remaining	UOM Unit Size	Disp		Unit Size		
Customer Note: AG/TIMBER#: 32046509181 ACTIVE THRU 2023								
60.000	0.000	60.000	FT		PVC-100-080-GA-PIP	FT	12.5857	755.14
				1.0	10 PIP CL80 GASKET			
						1.0		
1.000	0.000	1.000	EA		PIP-290-100812	EA	74.1908	74.19
				1.0	6" PVC 90 ELL SOC 80PIP			
						1.0		
1.000	0.000	1.000	EA		024-10-015	EA	247.0000	247.00
				1.0	10" TYPE 4 SUNSHINE S/A			
						1.0		
<i>Total Lines: 3</i>						SUB-TOTAL:		1,076.33
						TAX:		0.00
						LABOR-BACKHOE:		480.00
						LABOR-CREW2:		500.00
						MISC-ID DELIVERY:		120.00
<i>U.S. Dollars</i>						AMOUNT DUE:		2,176.33

Unless otherwise indicated, freight will be added. Claims of missing, damaged, or incorrect items should be reported upon receipt. Get a Returned Goods Authorization Number from Irrigation-Mart before returning items. Restocking fee is 20%. Payment is due upon receipt of invoice, unless otherwise indicated. Late payment penalty of up to 2% per month will be added to unpaid invoice. info@irrigation-mart.com WE APPRECIATE

Date: 07/13/2022

THE LAND

1004 E MILE 4 RD
PALMHURST, TX 78573
PHONE: 956-279-4866

ANDRES REYES

SKU	DESCRIPTION	UNIT COST(\$)	PRICE (\$)
	300 Feet of trenching (Labor)	\$4.00(Dollars)per foot	\$ 1,200.00
	Equipment Rental	\$200.00 a day (2 days)	\$ 400.00
	Pipe installation	\$1.25 per foot	\$ 375.00

+ the pipe 20' - \$19-
PRIMER & Glue -

ESTIMATED TOTAL: \$1,975.00

QUOTE GOOD FOR LABOR ONLY