



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0921-02-364

County: Hidalgo

Highway: Liberty Rd. phase II

Project Limits: Mile 3 to FM 2221 (Mile 7)

Parcel No.: 19A-19B

Owner's Name: Faustino Garcia

Approved Offer: \$1,675.00

Date Offer Sent: 12/03/2022

Owner's Counteroffer: \$2,500.00

Date Counteroffer Received: 1/20/2023

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
- b. Other: Property Owner believes his land and improvements were under valued.

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: 6/23
Possession of this property is needed by: 3/23
Projected possession date, if settled is: 07/23
Projected possession date, if condemned is: 5/23
Letting date: 6/23
- 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 State'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)

Being a 2,456 square foot or 0.0564 of an acre tract of land situated in the Pedro Flores Survey, Abstract 577, Porcion 77, Hidalgo County, Texas, out of Lot 85, Homeville Association "A", as recorded in Subdivision as recorded in Volume 0, Page 24,, of the Map Records, Hidalgo County, Texas. On December 03, 2022, Acquisition Provider (L&G Engineering) made an offer of \$1,675.00 to purchase the property from Faustino Garcia. On January 20, 2023 the property owner submitted a counter offer of \$2,500.00. Mr. Garcia stated that property values have increased substantibally in the last 24 months. Based on the information provided within the the counter offer and discussion by the acquisition team it is recommended that the Administrative Settlement be approved. The difference between the approved value versus the properety owner's counter offer (a difference of \$825.00) 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 Based on the information provided within the counter offer and discussion by the acquisition team it is recommended that the Administrative Settlement be approved. We believe that the proposed counter offer is within a reasonable range. Mr. Garcia is also requesting that he have a designated driveway implemented into Parcel 19A

This administrative settlement of \$ 2,500.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):

Herrera
Project Engineer/ROW Administrator

1/23/2023
Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

January 20, 2023

Fautino Garcia
1801 W Palma Vista Dr
Palmview, TX 78572
956-581-0455

Re: offer letter date 11-30-22
Liberty Rd Sec 2
No 19a-19b

Dear Mr Rolando Gonzalez

In an offer letter dated November 30, 2022 the Texas Dept of Transportation and Hidalgo Co is offering me \$1675.00 for the purchase of my land and improvement. I have reviewed the enclosed appraisal report and have determined to reject the county offer.

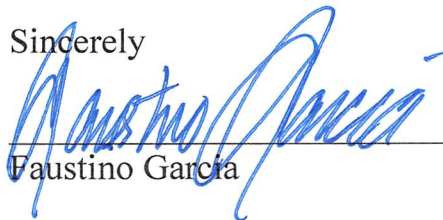
The basis for the rejection is as follow

A. I will accept \$2,500.00 for property due to the fact that the present value of my land has increased since last appraised

B. I would also like a designated entrance/driveway to property on no. 19a

Thank you for your consideration to this matter and will await for your approval

Sincerely



Faustino Garcia

1994, 10/10/94

The following information was obtained from the records of the Department of Health and Human Services, Office of the Inspector General, regarding the activities of the [redacted] in the [redacted] area.

The [redacted] was found to have been involved in the [redacted] of [redacted] funds for the [redacted] period.

The [redacted] was found to have been involved in the [redacted] of [redacted] funds for the [redacted] period.

The [redacted] was found to have been involved in the [redacted] of [redacted] funds for the [redacted] period.

[Handwritten signature]
[redacted]



REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: Liberty Road, 0.28 Mi North of Fir Avenue, District: 21
 Penitas, Texas 78577

Property Owner: Faustino Garcia Parcel: 19A & 19B
 Address of Property Owner: 807 Pammmy Cir Palmview, Texas 78572 ROW CSJ: 0921-02-364
 Occupant's Name: Faustino Garcia 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 \$1,675 as of August 17, 2022, based upon my independent appraisal and the exercise of my professional judgment;

That on August 17, 2022, I personally inspected in the field the property herein appraised; that I afforded Faustino 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 August 17, 2022;

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 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 \$ 0.00 .

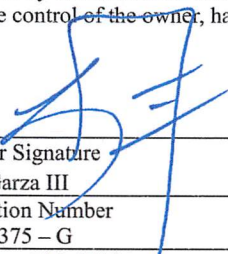
I certify to the best of my knowledge and belief:

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;

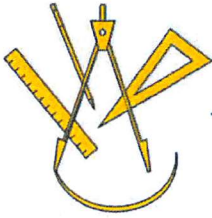
That my analysis, opinions and conclusions were developed, and this report has been prepared in conformity with the appropriate State laws, regulations, and policies and procedures applicable to the appraisal of right-of-way for such purposes, and that to the best of my knowledge no portion of the value 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: August 18, 2022

To the best of my knowledge, the value does not include any items which are not compensable under State law.


 Reviewing Appraiser
 Date: 8/23/2022





L&G Engineering

Transportation Consultants

November 30, 2022

**Via Certified Mail, Return Receipt Requested No.
7022 1670 0002 2460 1589**

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

ROW CSJ: 0921-02-364
Parcel: 19A-19B
From: Mile 3
To: FM 3 Mile Rd To FM 2221

Faustino Garcia
807 Pammy Circle
Palmview, Texas 78572

Dear Mr. Faustino Garcia:

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 **\$ 1675 .00** for your property, which includes **\$ 1675 .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 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.	N/A	\$ 0.00

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

Parcel: **19A & 19B** Highway: **Liberty Road-Phase II** ROW CSJ: **0921-02-364**
 Taking Type: Partial District: Pharr
 Size of Remainder: 6.914Acres County: Hidalgo
 Type of Property: Res-SFR Federal Project: N/A
 Contract Fencing: N/A
 Appraised by Leonel Garza III
 Effective Date of Appraisal: 8/17/2022
 Date Appraisal Signed: 8/18/2022

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 Hidalgo County Precinct No. 3	80% 20%	ROW Acquisition Expenses ROW Acquisition Expenses

Interest Owner	Acquisition Interest	Land Area	Value	Lease (Y/N)
Faustino Garcia	Fee Simple	0.0667 Acres/ 2,906 sf.-Total 19A & 19B	\$1,675.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$1,675.00	\$0.00	\$0.00	\$0.00	\$1,675.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		Total	\$0.00		

TABULATION OF VALUES (continued)

Parcel: 19A & 19B

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	\$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:	8/17/2022			Recommended Value
Appraiser's Name:	Leonel Garza III			
Value of Whole Property	\$174,525.00			\$174,525.00
Parcel Area: 0.0667 Acres.				
VALUE FOR PARCEL				
Land: per ac.-\$25,000	\$1,675.00			\$1,675.00
Easement	\$0.00			\$0.00
Improvements	\$0.00			\$0.00
Net Damages or (Enhancements)	\$0.00			\$0.00
OAS Value(s)	\$0.00			\$0.00
TOTAL COMPENSATION	\$1,675.00			\$1,675.00

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

TABULATION OF VALUES (continued)

Parcel: **19A & 19B**

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: August 17, 2022
Report Dated: August 18, 2022
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: August 18, 2022

Parcel 19A is a partial taking of 0.0564 acres (2,456 sf.) situated in the Pedro Flores Survey, Abstract 577, Porcion 77, out of Lots 85 and 86 , Homeville Association Subdivision "A" as recorded in Volume O, Page 24, of the Map Records, Hidalgo County, Texas, said taking is being out of a called 6.981 acre tract of land, conveyed by Release of Lien, dated April 20, 1983, to E.,T. Withers, President of Venado, Inc. as described in Volume 1130, Page 59, dated July 5, 1985, to Jose C. Leal and Israel Riojas, as described in Volume 2159, Page 209, of the Official Records, Hidalgo County, Texas.

Parcel 19B is a partial taking of 0.0103 of an ace (450 sf.) situated in the Pedro Flores Survey, Abstract 577, Porcion 77, Hidalgo County, Texas, out of Lot 85, Homeville Association Subdivision "A, " as recorded in Volume 0, Page 24, of the Map Records, Hidalgo County, Texas and being out of a called 6.981 acre tract of land, conveyed by Release of Lien, dated April 20, 1983, to E.T. Withers, President of Venado, Inc., as described in Volume 1130, Page 59, of the Official Records, Hidalgo County, Texas.

The whole property of 6.981 acres is located along the eastern side of Liberty Road approximately 0.28 mile North of Fir Avenue, Penitas, Texas. The whole property effectively vacant land.

The appraiser Leonel Garza III has selected three (3) recent sales to value the whole tract at \$25,000 per acre. The highest and best use is for residential developmental 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.

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 1,675.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

Retentions are not applicable as subject acquisition is vacant land.

TABULATION OF VALUES (continued)

Parcel: **19A & 19B**

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



Contract Reviewing Appraiser (if applicable)

8/23/2022

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

County/City Representative

Date

ROW Staff Representative

Date