



**BRIGHTON GROUP**

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

February 10, 2022

The Honorable Ellie Torres  
Commissioner, Pct. #4  
**C/O Velinda Reyes**  
Chief Administrator for External Affairs/RPIC  
1051 N Doolittle Rd.  
Edinburg, Texas 78542

RE: County: Hidalgo  
Parcel No. 6  
Russell Road: FROM Rooth Road TO Mon Mack Road

Dear Commissioner Torres:

Attached herewith is a counter-offer as submitted by Mr. Christopher & Janet Laboskey, owners of Parcel 6. Brighton Group has reviewed the aforementioned and hereby recommends that the counter-offer **be approved.** Also attached is the N-9, Administrative Settlement Evaluation and Approval Form.

Brighton Group believes the counter-offer 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 counter-offer of **\$24,807.00** be accepted.

Please review these documents and feel free to contact me at (956)379-7970 if you wish to discuss this matter personally.

Sincerely,

Joseph Palacios  
President/CEO

Attachments: As Noted

Cc: File



## HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: N/A

County: Hidalgo

Highway: Russell Road

Project Limits: From Rooth Rd To Mon Mack Rd

Parcel No.: 6

Owner's Name: Christopher P. Laboskey and wife,  
Janet M. Laboskey

Approved Offer: \$19,073.00

Date Offer Sent: 7/30/22

Owner's Counteroffer: \$24,807.00

Date Counteroffer Received: 1/19/2023

### Factors considered in evaluation:

1. Valuation Issues

- a.  Reconciliation of all available appraisals, including Owner's.  
b.  Other: Property owner feels that their land and 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: 1/2023  
Projected possession date, if settled is: 1/2023  
Projected possession date, if condemned is: 04/2023  
Letting date: 2023  
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 6 is 7,000 sq. ft. or 0.161 of one acre tract of land situated in Hidalgo County, Texas and being in Lot 16, Section 236, Texas-Mexican Railway Company's Survey as recorded in Volume 1, page 12. On July 30, 2022, Brighton Group, Acquisition Provider for the County, made an offer of \$19,073.00 to owner of record, Mr. Christopher & Janet Laboskey, via certified mail. Mr. & Mrs. Laboskey submitted a counteroffer stating that their land and improvements were undervalued. The Laboskey's have requested an additional \$5,734.00. 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 \$19,073.00 versus the property owner's counter offer is \$5,734.00. We believe that the proposed counteroffer is within a reasonable range and seek the County's consideration for approval. This amount 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 savings to the county.

This administrative settlement of \$24,807.00  is /  is not recommended for approval as being reasonable, justified, prudent and in the public interest.

**RECOMMENDATION(S):**

*Joseph Pulvino*

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

1/22/2023

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

**COUNTY APPROVAL:**

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

\_\_\_\_\_  
Date

Alice ,

This is a written request for administrative settlement/ counteroffer on our property at 5401W Mile 17 1/2 Rd.

We counteroffer with the following explanation:

Use "cost value" of .161 acres that adds: (\$12,608 - \$10,465)	\$2143
Wood fence replacement did not include wire fence gridding 5 ft high And cost of materials is too low including cement pole footings	\$700
Bank charge fee by lien holder Capital Farm to release property	\$500
Time value loss of our Ag exemption acreage Forces whole property to be less than 5 acres as tax increases	\$1893
Road noise aggravation of heavy traffic 4 lane road destroying rural environment And causing entryway to be more expensive to build requiring more materials. Home is 4 feet closer to busier road.	\$500
Add existing Chain link fence and gate to retain list. Owner to remove for scrap metal value.	-\$2
<hr/>	
	\$5734

Total Offered Hidalgo County \$19,073

Added. \$5,734

Counteroffer. \$ 24,807

Christopher P. And Janet M. LaBoskey



**BRIGHTON GROUP**

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

Date: July 29, 2022

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

ROW CSJ: N/A  
Parcel ID: 6  
From: Rooth Road  
To: Mon Mack Road

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED NO. 7020 1290 0001 2259 0466

Christopher & Janet Laboskey  
5401 W Mile 17 1/2 Rd  
Edinburg, TX 78541

Dear Mr. & Mrs. Laboskey,

In acquiring property for 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, Alice Rodriguez, a portion of your property located on Russell 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 \$19,073.00 for your property, which includes \$19,073.00 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 /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 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 County to permit owners who convey voluntarily to the 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>Amount to be Subtracted if Retained</u>
A. 3 Tier Wood Fence w/ Grids	\$1.00
B. Asphalt Driveway	\$1.00
C. Decorative Weathervane	\$1.00
D. Railroad Ties	\$1.00

If you wish to accept the offer based upon this appraisal, please contact Alice Rodriguez as soon as possible, at (956) 379-7970, 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 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 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 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 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 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 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,



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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: 5401 W Mile 17 1/2 Road Edinburg, Texas 78541 District: Pharr  
 Property Owner: Christopher P Laboskey & Janey P Laboskey Parcel: 6  
 Address of Property Owner: 5401 W Mile 17 1/2 Road Edinburg, Texas ROW CSJ: N/A  
 78541  
 Occupant's Name: Christopher P Laboskey & Janey P Laboskey Federal Project No: N/A  
 Whole:  Partial:  Acquisition Highway: Russell 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 \$19,073 as of June 14, 2022, based upon my independent appraisal and the exercise of my professional judgment;

That on June 14, 2022, I personally inspected in the field the property herein appraised; that I afforded Christopher P Laboskey & Janet P Laboskey, 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 June 14, 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 Brighton Group, LLC, Hidalgo County Precinct No. 4, and/or their representatives, or officials of the Federal Highway Administration until authorized by State officials to do so, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified to such findings;

That my compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

The appraiser has considered access damages in accordance with Section 21.042(d) of the Texas Property Code, as amended by SB18 of the Texas 82<sup>nd</sup> Regular Legislative Session and finds as follows:

1. Is there a denial of direct access of the parcel? No
2. If so, is the denial of direct access material? 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: July 14, 2022

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

\_\_\_\_\_  
 Reviewing Appraiser Date

