

L&G Engineering

June 6, 2023

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 (Easement Interest)

Dear Commissioner Cantu:

Attached herewith is a counter-offer as submitted by Magic Valley Electric Cooperative (MVEC), owner of Parcel 11 (Easement Interest) on March 1, 2023. 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 **\$27,480.14** 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

County: Hidalgo

Highway: East Nolana Loop

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

Parcel No.: 11 (Easement Interest Only)

Owner's Name: Magic Valley Electric Cooperative

Approved Offer: \$9,096.00

Date Offer Sent: 5/31/2022

Owner's Counteroffer: \$27,480.14

Date Counteroffer Received: 6/2/2023

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
b. Other: Property Owner agrees to release their exclusive easement for an additional amount.

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: 7/2023
Projected possession date, if settled is: 7/2023
Projected possession date, if condemned is: 11/2023
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 _____

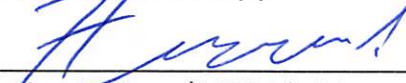
Analysis and Conclusion:

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. This is an Easement Interest belonging to Magic Valley Electric Cooperative (MVEC), Document No. 437955, 19,815 sq.ft.. On May 31, 2022, we mailed the initial offer letter packet to MVEC (Easement Interest property owners) in the amount of \$9,096.00. After several discussions and providing needed materials to MVEC, they agreed to an additional amount of \$18,384.14 for their exclusive easement that would resolve any concerns or justification that MVEC needs, they are willing to execute all necessary documents in order to release all rights. On June 2, 2023 we received a counter offer via-email in the amount of \$27,480.14 from MVEC, a difference of \$18,384.14. 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 Hidalgo County.

This administrative settlement of \$ 27,480.14 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator



Date

(RPIC)/Authorized Pct. No. 2 Representative

Date

COUNTY APPROVAL:

Hidalgo 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 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)
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

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
Total			\$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				
VALUE FOR PARCEL				
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
TOTAL COMPENSATION	\$80,512.00	\$78,086.00		\$80,512.00

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 sf.) 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. McManis

Contract Reviewing Appraiser (if applicable)

4/25/2022

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

Richard J. Clark

County/City Representative

5-11-22

Date

ROW Staff Representative

Date

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



REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: Nolana Loop 0.25 miles west of Alamo Road, District: 21
Alamo, Texas
Property Owner: Paul & Joyce Obst Parcel: 11
Address of Property Owner: 1520 North Alamo Road, Alamo, Texas ROW CSJ: 0921-02-361
78516
Occupant's Name: Paul Obst & Joyce Obst Federal Project No: N/A
Whole: Partial: 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 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: March 14, 2022

To the best of my knowledge, the value does not include any items which are not compensable under State law.
Harvey L. Heerssen 4/25/2022
Reviewing Appraiser Date





L&G Engineering

May 25, 2022

Transportation Consultants

County: Hidalgo
CSJ: 0921-02-421
Highway: E. Nolana Loop
From: FM 1426 (Raul Longoria Road)
To: FM 907 (Alamo Road)
Parcel: 11 Easement Rights

South Texas Electric Cooperative
Attn: Dwight Jander, Land Agent
2849 FM 447
Nursery, Texas 77976

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED NO. 7020 0090 0001 6884 1794

Dear Sirs:

The County of Hidalgo (the "County") by and through its acquisition consultant, L & G Engineering Acquisition Services (the "Contractor"), is presently proceeding with the acquisition of right of way for the construction of E. Nolana Loop from FM 1426 (Raul Longoria Road) to FM 907 (Alamo Road).

In acquiring property for the highway systems of Texas, the Texas Department of Transportation (the "Department") and the County follow a definite procedure for appraising the land needed and for handling personal negotiations with each Interest Owner. As has been or will be explained by the L&G's negotiator, Fernando Herrera, Jr., your easement rights located within Parcel No. 11 of this project are to be acquired.

We believe at this stage of the purchase process it is mutually beneficial to confirm that based on an appraisal(s) made by an independent appraiser(s) and an analysis by an independent review appraiser, the County is authorized to offer you \$ **9,096.00** for a portion of your easement. This amount is the total amount of just compensation for the easement rights, as determined through the appraisal process.

If you wish to accept the offer based upon this appraisal, please contact L&G Engineering 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 Contractor within the 30 day time deadline.*

In the event the condition of the property changes for any reason, the State/County shall have the right to withdraw or modify this offer.

It will be necessary that both the easement and fee title to subject tract be acquired through normal acquisition negotiations in order to consummate this transaction and obtain payment from the County.

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. Expenses eligible for reimbursement may include (1) recording fees, transfer taxes and similar expenses incidental to conveying the real property to the Department 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 Department'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 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 Department'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 Department/County, including the appraisal on which this offer is based.

Sincerely,



Fernando Herrera
Right of Way Administrator Manager or other
signatory

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

Robert Casarez

From: Ruben Pena (MVEC Attorney) <rpena@magicvalley.coop>
Sent: Friday, June 2, 2023 8:09 AM
To: Robert Casarez
Cc: Carlos Guajardo; Brian Acosta
Subject: re: Parcel 11 counter

Good afternoon gentlemen, Carlos Guajardo and our engineering staff have calculated the damages that are to be incurred on behalf of MVEC with regards to

Parcel 11 in which we have our existing easement. Parcel 11 happens to affect MVEC with approximately 660.35 feet of area that is

to be released as part of the Right of Way Acquisition Process. Therefore, MVEC agrees to release our exclusive easement in an

effort to comply with Hidalgo County Pct. #2 who is working on this project. Upon the offer received, MVEC estimates an additional

amount of \$18,384.14 that is needed in order to complete the release process. As a result, MVEC's total counter offer on this

subject matter sums up to an amount of \$27,480.14 which includes any concerns or justification that we need in order to release

all of our rights. With this settlement if approved, MVEC can complete the documentation needed and avoid any delays or

any future litigations.

Please feel free to contact me or Carlos should you have any questions.

Regards,

Ruben Pena

Confidentiality Statement: The information contained in this E-mail is legally privileged and confidential information which is intended only for the use of the individual or entity to whom it is addressed. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and delete the misdirected message from your system. Thank you for your cooperation. ***Approved MVEC Internal Communication*** "The information contained in this message may be information protected by attorney-client and/or the attorney/work product privilege. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by email. If the person actually receiving this email or any other reader of this message is not the named recipient

or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via email and by the U. S. Postal Service.”