

L&G Engineering

Transportation Consultants

May 22, 2023

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

RE: County: Hidalgo
RCSJ No. 0921-02-406
Parcel No. 22
Cesar Chavez Phase II: From: Business 83 To: Nolana Loop

Dear Commissioner Cantu:

Attached herewith is a counter-offer as submitted by Mr. Ricardo Martinez Jr., owner of Parcel 22 on April 26, 2023. L & G Engineering has reviewed the aforementioned and hereby recommends that counter-offer **be approved**. Also attached 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 counter offer of **\$15,228.00** 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 "Fred" Herrera
Right of Way Administrator

Attachments: As noted.

cc: File



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0921-02-406

County: Hidalgo

Highway: Cesar Chavez Rd

Project Limits: From Business 83 to Nolana Loop

Parcel No.: 22

Owner's Name: Ricardo Martinez Jr.

Approved Offer: \$5,076.00

Date Offer Sent: 3/31/2023

Owner's Counteroffer: \$15,228.00

Date Counteroffer Received: 4/27/2023

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
b. Other: Property owner believes that her property was 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: 06/2023
Projected possession date, if settled is: 06/2023
Projected possession date, if condemned is: 11/2023
Letting date: 6/2025
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 _____

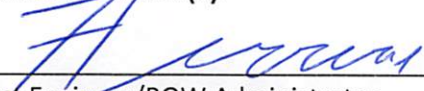
Analysis and Conclusion:

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

Parcel 22 is a partial acquisition containing 771 sq. ft. parcel of land situated in Hidalgo County, Texas and also being a part of a certain 1.11 acre tract out of Lot F, MILLER'S SUBDIVISION. On March 31, 2023, Acquisition Provider, L & G Engineering, made an offer of \$5,076.00 to property owner Ricardo Martinez Jr., via certified mail. On April 26, 2023, Mr. Martinez submitted a counter offer for \$15,228.00. In his counter offer he states that his property had been undervalued. He also states he believes he would need to build a fence for safety measures. Also, at this time there is no fence in front of this property. 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 property owner's counter offer is a (difference of \$10,152.00) 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.

This administrative settlement of \$ 15,228.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator

5/31/23

Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

April 26, 2023

Attn: Novelia Sanchez

In response to your letter dated March 29, 2023 regarding the offer of \$5,076.00 for the sale of my property known as Parcel 22 located at 311 N. Cesar Chavez , I hereby reject. However, a demand is hereby made for payment in the amount of **\$15,228.00**, to resolve this matter amicably without the costs of protracted litigation.

REASONS:

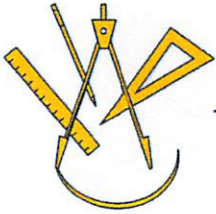
- 1) I believe the offer is undervalued. Ex: there is 1 lot that is 4sale down the street about ½ a block North from me, Alamo side of Cesar Chavez going for \$300,000.00 size: 60x240 \$20.83 /SF
- 2) SAFETY MEASURES : Due to the fact the road will be closer to my house I will have to build a fence to keep my family safe.

If you have any questions regarding the offer, please do not hesitate to contact me directly. I can be reached at (956) 475-8309. Your continued cooperation toward resolution of this matter will be appreciated.

Respectfully submitted,



Ricardo Martinez Jr. -Owner



L&G Engineering

Transportation Consultants

March 31, 2023

Via Certified Mail, Return Receipt Requested,
No. 7021 2720 00035005 2943

County: Hidalgo
Federal Project No.: N/A
Highway: Cesar Chavez Section II

ROW CSJ: 0921-02-406
Parcel ID: 22
From: Business 83
To: Nolana Loop

Ricardo Martinez, Jr.
P.O. Box 1023
San Juan, Texas 78589

Dear Sir/Madam:

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, Robert "Bob" Garcia, a portion of your property located on Cesar Chavez 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 \$5,076.00 for the Property, which includes \$5,076.00 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 the property to be acquired, as determined in accordance with State law, less oil, gas, and sulfur, subject to the 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 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 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 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. Pavement – Asphalt	\$1.00
B. Landscaping – Tree	\$1.00

If you wish to accept the offer based upon this appraisal, please contact Novelia Sanchez, 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 the 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 that 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 that 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.

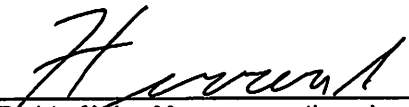
Please see the enclosed copy of the proposed instrument that will convey the Property and any improvement owned by you on the Property to the Department. Additionally, please see the enclosed copy of the Texas Landowner Bill of Rights.

Also enclosed 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 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 Ms. Novelia Sanchez at the telephone number provided above regarding any questions you may have.

Please see the enclosed copy of the Texas Landowners' 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,



Right of Way Manager or other signatories

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

TABULATION OF VALUES

Parcel: 22 Highway: Cesar Chavez Road Ph II ROW CSJ: 0921-02-406
 Taking Type: Partial District: Pharr
 Size of Remainder: None County: Hidalgo
 Type of Property: Residential Federal Project: N/A
 Contract Fencing: N/A
 Appraised by: Leonel Garza III
 Date Appraised: 2/10/2023

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	100.00%	ROW Acquisition Expenses

Interest Owner	Acquisition Interest	Land Area	Value	Lease (Y/N)
Ricardo Martinez, Jr	Fee Simple	0.0177 of an acre/ 771 square feet	\$2,313.00	N

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$2,313.00	\$2,763.00	\$0.00	\$0.00	\$5,076.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Pavement	Asphalt	\$263.00	\$1.00	N/A
B.	Landscaping	Tree	\$2,500.00	\$1.00	N/A

TABULATION OF VALUES (continued)

Parcel: 22

Highway: Cesar Chavez Road Ph II

ROW CSJ: 0921-02-406

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	\$0.00	\$0.00	N/A
Total			\$0.00	\$0.00	

V. Recapitulation

Date:	2/10/2023	Recommended Value
Appraiser's Name:	Leonel Garza III	
Value of Whole Property	\$256,352.00	\$256,352.00
Parcel Area: 0.0177 ac.		
VALUE FOR PARCEL		
Land: per_sf. \$3.00	\$2,313.00	\$2,313.00
Easement	\$0.00	\$0.00
Improvements	\$2,763.00	\$2,763.00
Net Damages or (Enhancements)	\$0.00	\$0.00
OAS Value(s)	\$0.00	\$0.00
TOTAL COMPENSATION	\$5,076.00	\$5,076.00

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

TABULATION OF VALUES (continued)

Parcel: 22

Highway: Cesar Chavez Road Ph II

ROW CSJ: 0921-02-406

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: Leonel Garza III
Effective Date of Valuation: October 16, 2022
Report Dated: February 10, 2023
Review Appraiser: Brian Cade
Effective Date of Review: February 13, 2023
TxDOT Review Appraiser: N/A
Report Received at TxDOT:

Parcel 22 appears to be a parcel taking of 0.0177 of an acre (771) sf. parcel of land being a part or portion of a certain 1.11 acre tract of land out of Lot F, Miller's Subdivision, Hidalgo County, Texas

This parcel is located along the west side of Cesar Chavez Road within the City of San Juan, Texas. The whole property containing a single family residence is owned by Ricardo Martinez, Jr. The highest and best use is for Interim Residential Use with Future Commercial Use.

Three (3) recent comparable sales are utilized to value the whole property at \$3.00 per sf. The part taken is properly valued as a pro-rata part of the whole property unit value. There are no market damages to the remainder land.

A breakdown of the total compensation is as follows: Land owned by Ricardo Martinez, Jr to be \$2,313.00 and the improvements owned by Ricardo Martinez, Jr are \$2,763.00 totaling \$5,076.00.

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 \$5,076.00 be approved for 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: 22

Highway: Cesar Chavez Road Ph II

ROW CSJ: 0921-02-406

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.

Brian Cade

Digitally signed by Brian Cade
DN: cn=Brian Cade, o=RGV Appraisal Services,
ou, email=brian@rgvappraisals.com, c=US
Date: 2023.02.13 10:32:36 -06'00

2/13/2023

Reviewing Appraiser

Date

Contract Reviewing Appraiser (if applicable)

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

Richard D. Cuel

3/15/2023

County/City Representative

Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS COURT
ON: 1/17/23 *ml*

REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: 311 North Cesar Chavez Road, San Juan, Texas District: Pharr
 Property Owner: Ricardo Martinez, Jr. Parcel: 22
 Address of Property Owner: PO Box 1023, San Juan, Texas 78589 ROW CSJ: 0921-02-406
 Occupant's Name: Ricardo Martinez, Jr. Federal Project No: N/A
 Whole: Partial: Acquisition Highway: Cesar Chavez Road Ph II 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 \$5,076.00 as of October 16, 2022, based upon my independent appraisal and the exercise of my professional judgment;

That on October 16, 2022, I personally inspected in the field the property herein appraised; that I afforded Ricardo S. Martinez & Ricardo Martinez, Jr., 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 October 12, 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 L&G Engineering Transportation Consultants Inc., Hidalgo County Precinct No. 2 and or the Texas Department of Transportation, 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
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: February 10, 2023

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

Brian Cade
Digitally signed by Brian Cade
 DN: cn=Brian Cade, o=RGV Appraisal Services, ou,
 email=brian@rgvappraisals.com, c=US
 Date: 2023.02.13 10:31:11 -0600'

2/13/2023
 Reviewing Appraiser Date

