

# L&G Engineering

Transportation Consultants

June 13, 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. 47  
Cesar Chavez Section II: From: Business 83 To: Nolana Loop

Dear Commissioner Cantu:

Attached herewith is a counter-offer as submitted by Benvenuto Briones and Benvenuto Briones, Jr., owners of Parcel 47. On June 12, 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 concern. 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 **\$14,862.00** 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

P2 ADMIN  
2023 JUN 13 PM 4:37



## HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

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ROW CSJ: 0921-02-406

County: Hidalgo

Highway: Cesar Chavez Rd

Project Limits: From Business 83 to Nolana Loop

Parcel No.: 47

Owner's Name: Benvento Briones and Benvenuto  
Briones, Jr.

Approved Offer: \$11,884.00

Date Offer Sent: 4/4/2023

Owner's Counteroffer: \$14,862.00

Date Counteroffer Received: 6/12/2023

### Factors considered in evaluation:

1. Valuation Issues

- a.  Reconciliation of all available appraisals, including Owner's.  
b.  Other: Property owners believe that their 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: 7/2023  
Projected possession date, if settled is: 7/2023  
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 \_\_\_\_\_

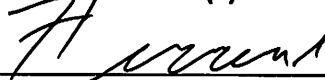
**Analysis and Conclusion:**

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

Parcel 47: is a partial acquisition being of a 0.053 of an acre (2,291 square feet) parcel of land situated in Hidalgo County, Texas and also being a part or portion of a certain 2.00 acre tract out of Lot 4, Block 35, Alamo Land and Sugar Company's SUBDIVISION. On April 4, 2023, L & G Engineering, sent an initial offer package in the amount of \$11,884.00 to property owners Benvento Briones and Benbenuto Briones, Jr., via certified mail. After several discussions with the property owner and visiting the property parcel, the property owners submitted a counter offer in the amount of \$14,862.00. In their counter offer they stated that the property has been undervalued, but they do agree of the improvement and damages valuation. Based on the information provided they are within a reasonable amount 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 \$2,978.00) and 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 \$ 14,862.00  is /  is not recommended for approval as being reasonable, justified, prudent and in the public interest.

**RECOMMENDATION(S):**

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

6/13/2023  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

**COUNTY APPROVAL:**

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

\_\_\_\_\_  
Date





**TABULATION OF VALUES (continued)**

Parcel: 47

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
<b>Total</b>			\$0.00	\$0.00	

**V. Recapitulation**

<b>Date:</b>	2/8/2023			<b>Recommended Value</b>
<b>Appraiser's Name:</b>	Leonel Garza III			
<b>Value of Whole Property</b>				
<b>Parcel Area: 0.0526 ac.</b>				
<b>VALUE FOR PARCEL</b>				
<b>Land: per_sf.\$2.70</b>	\$6,186.00			\$6,186.00
<b>Easement</b>	\$0.00			\$0.00
<b>Improvements</b>	\$2,637.00			\$2,637.00
<b>Net Damages or (Enhancements)</b>	\$3,061.00			\$3,061.00
<b>OAS Value(s)</b>	\$0.00			\$0.00
<b>TOTAL COMPENSATION</b>	\$11,884.00			\$11,884.00

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

**TABULATION OF VALUES (continued)**

Parcel: 47

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 20, 2022  
Report Dated: February 8, 2023  
Review Appraiser: Brian Cade  
Effective Date of Review: February 10, 2023  
TxDOT Review Appraiser: N/A  
Report Received at TxDOT:

Parcel 47 appears to be a parcel taking of 0.0529 of an acre (2,291) sf. parcel of land being a part or portion of a certain 2.00 acre tract out of Lot 4, Block 35, Alamo Land & Sugar Company's Subdivision, Hidalgo County, Texas

This parcel is located along the south side of Sgt Leonel Trevino Road west Cesar Chavez Road within the City of San Juan, Texas. The whole property containing vacant land is owned by Benvento Briones and Benbenuto Briones, Jr. The highest and best use is for commercial use.

Three (3) recent comparable sales are utilized to value the whole property at \$2.70 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 Benvento Briones and Benbenuto Briones, Jr. to be \$6,186.00, the improvements owned by Benvento Briones and Benbenuto Briones, Jr. are \$2,637.00, net damages or enhancements is \$211.00 and the cost to cure the damages is \$2,850.00 totaling \$11,884.00.

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 \$11,884.00 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: 47

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: 2023.02.10 09:54:36 -06'00'

2/10/2023

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contract Reviewing Appraiser (if applicable)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Division Reviewing Appraiser (if applicable)

\_\_\_\_\_  
Date

**X. Approval of Values**

*Reed D Cava*

3/15/2023

\_\_\_\_\_  
County/City Representative

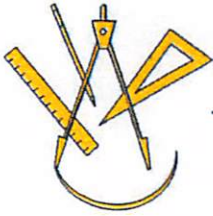
\_\_\_\_\_  
Date

\_\_\_\_\_  
ROW Staff Representative

\_\_\_\_\_  
Date

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





# L&G Engineering

Transportation Consultants

March 31, 2023

Via Certified Mail, Return Receipt Requested,  
No. 7021 2720 0003 5005 2905

County: Hidalgo

Federal Project No.: N/A

Highway: Cesar Chavez Section II

ROW CSJ: 0921-02-406

Parcel ID: 47

From: Business 83

To: Eldora Road

Benvento Briones & Benbenuto Briones, Jr.  
1714 E. Alberta Road  
Edinburg, Texas 78542

Dear Sir/Madam:

In acquiring property for the highway system of Texas, the Texas Department of Transportation (the "Department") and 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, 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 \$11,884.00 for the Property, which includes \$8,823.00 for the Property to be purchased and \$3,061.00 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 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.	Fence – Chain Link	\$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 a 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



May 30, 2023

Benvento & Benenuto Briones  
1714 E. Alberta Road  
Edinburg, Texas 78542

Subject: Cesar Chavez Rd - Parcel 47 (2,291 square feet)

Dear Mr. Gasarez,

After reviewing the initial offer letter in the amount of \$11,884.00 and the appraisal report regarding my Parcel, I have decided to respectfully reject the offer amount of \$11,884.00. The reason for the rejection is because I believe my land has been undervalued. This tract of land is in a commercialized area, therefore, it should be no less than \$4.00 Sq.Ft. instead of your offer of \$2.70 a Sq.Ft. We agree with the improvements and damages. Please see calculation below:

Land - 2,291 Sq.Ft. X \$4.00 Sq.Ft.-----	\$9,164.00
Improvement - -----	\$2,637.00
Damages - -----	\$3,061.00
Total - Counter Offer Amount-----	<b>\$14,862.00</b>

The above indicates the value of my land and improvements within the proposed right of way taking.

I am willing to execute the deed transferring ownership of Parcel No. 47 to the county to avoid any further delays and litigation for my counter offer in the amount of \$14,862.00.

Thank you for your consideration towards this right of way matter and so that we may proceed accordingly.

Sincerely,



Benvento Briones

Benvenuto Briones, Jr.

Owners

**RECEIVED**  
6-12-2023