

L&G Engineering

Transportation Consultants

June 10, 2024

The Honorable Eduardo "Eddie" Cantu
Commissioner, Pct. 2
c/o **Erika Zamora**
300 West Hall Acres
Pharr, Texas 78577

RE: County: Hidalgo
TxDOT CSJ No. 0921-02-406
Cesar Chavez Phase II: Business 83 to Nolana Loop
Parcel No.: 43

Dear Commissioner Cantu:

Attached herewith is a counter-offer as submitted by Mr. Jorge Villanueva dba McAllen Auto Mart, owner of Parcel 43 on May 10, 2024. 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 **\$29,494.00** 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" Hererra
Right of Way Administrator

Attachments: As noted.
cc: File



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0921-02-406

Highway: Cesar Chavez Rd

Parcel No.: 43

Owner's Name: Jorge Villanueva dba McAllen Auto
Mart

Approved Offer: \$23,494.00

Owner's Counteroffer: \$29,494.00

County: Hidalgo

Project Limits: From Business 83 to Nolana Loop

Date Offer Sent: 1/27/2024

Date Counteroffer Received: 5/10/2024

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
- b. Other: Property owner believes some improvements were missed and feels land has been 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: 06/2025
Projected possession date, if settled is: 7/2024
Projected possession date, if condemned is: 12/2024
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 _____

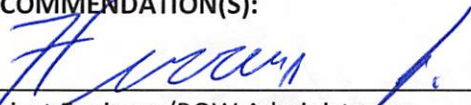
Analysis and Conclusion:

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

Parcel 43 is a partial acquisition containing 0.019 of an acre (842 sq. ft.) parcel of land situated in Hidalgo County, Texas and also being a part or portion of a certain 0.51 of an acre tract out of Lot 4, Block 35, ALAMO LAND AND SUGAR SUBDIVISION. On January 27, 2023, Acquisition Provider, L & G Engineering, made an offer of \$23,494.00 to property owner Jorge Villanueva, via certified mail. On May 10, 2024, Mr. Villanueva via his attorney Rebecca Villanueva submitted a counter offer for \$29,494.00. In their counter offer they state they feel their property has been undervalued due to it being in a commercial site. Also, some improvements were overlooked it being a steel pipe fence, and 2 steel beams located on the top of north facing chain link fence. (see attached). 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 (difference of \$6,000.00) 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 \$ 29,494.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator

6/10/24

Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

RLV

REBECCA L. VILLANUEVA
ATTORNEY AT LAW

May 7, 2024

Via email
Novelia Sanchez
L&G ENGINEERING
900 S. Stewart Rd., Ste 10
Mission, Texas 78572

FIRST COUNTER-OFFER

**RE: PARCEL: 43
HIGHWAY: CESAR CHAVEZ SECTION II
The purchase of a 0.019 of an acre (842 square feet) parcel of land situated in Hidalgo County, Texas, and also being a part of or portion of a certain 0.51 of an acre tract out of Lot 4, Block 35, ALAMO LAND AND SUGAR COMPANY'S SUBDIVISION, according to the plat or map thereof recorded in Volume 1, Pages 24-26, of Map records of Hidalgo County.**

Please be advised that this firm has been retained by Mr. Jorge Villanueva regarding the above-mentioned matter. This letter is to confirm we have received your offer of \$23,494.00 as just compensation for all interests in the portion of the property to be acquired. Please accept this letter as a formal rejection of the offer on behalf of our client.

As you are aware, under Texas Law, our client is entitled to receive adequate compensation for the property being acquired and damages to the remaining property as a direct result of the property being taken under eminent domain.

While we appreciate you keeping an open dialogue in order to fairly resolve this claim, this offer clearly falls below the standard of proving just compensation for our client's harms and losses for the property being acquired. The offer fails to consider all of the factors that are considered by the Special Commissioners of Hidalgo County when providing JUST compensation to property owners.

RE-EVALUATION:

First of all, your appraisal report is insufficient since it is based on the subject property being zoned as a Residential, the subject property has been zoned as Commercial since its purchase in 2003. Hidalgo County Appraisal District has the subject property appraised as Commercial and has been taxed as such by Hidalgo County and City of San Juan Tax

Offices. I've attached maps of the subject property as being zoned as Commercial. City of San Juan's current map is incorrect as well, as per their San Juan Expressway Corridor Study, it was zoned Commercial in several maps. No changes have been made since 2003 to deem it Residential.

The comparable properties that were used to determine the value of the subject property are not similar since these properties are not only vacant lots but are not located within the Expressway Corridor area. The Expressway Corridor area is faster developing and the property located in this area is in higher demand. There have been several recent sales of neighboring property being valued at a higher square footage value than what was appraised of the subject property in the report.

Improvements were not included, a metal steel pipe secondary gate (colored yellow) that is located along the front, bottom chain link fence and the part of the two steel beams located on the top of north facing chain link fence was not listed or valued in your Property Valuation Summary.

The subject property is a commercial business, the impact of construction on the business has not been accounted for. How long is this project going to take... months, years? Sales are clearly going to be impacted while the road expansion is happening since roads will be blocked and traffic diverted. We believe \$4,337.00 is not nearly enough without fully knowing the timeframe of this project.

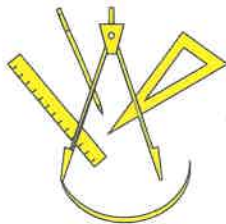
Lastly, the water meter was not addressed, who will be responsible for moving the water meter once construction begins? If the property owner, how much compensation is being offered to allow for this?

COUNTER OFFER:

Nevertheless, after discussing your offer with our client, he is willing to settle for \$29,494.00 for the just compensation of the property to be acquired.

As usual, thank you for your professional courtesies.

Respectfully,
Rebecca L. Villanueva
Attorney at Law
204 E. Cano St. #418
Edinburg, Texas 78539
Office: 956.731.0118
Fax: 956.338.5772
Email: RLVattorney@gmail.com



L&G Engineering

Transportation Consultants

January 25, 2024

County: Hidalgo
CSJ: 0921-02-406
Highway: Cesar Chavez Section II
From: Business 83
To: Nolana Loop
Parcel: 43

RE: The purchase of a 0.019 of an acre (842 square feet) parcel of land situated in Hidalgo County, Texas, and also being a part or portion of a certain 0.51 of an acre tract out of Lot 4, Block 35, ALAMO LAND AND SUGAR COMPANY'S SUBDIVISION, according to the plat or map thereof recorded in Volume 1, Pages 24-26, of the Map records of Hidalgo County.

Jorge Villanueva dba McAllen Auto Mart
2416 S 23rd Street
McAllen, Texas 78503

Dear Mr. Jorge Villanueva:

Enclosed for your review and further processing are the following:

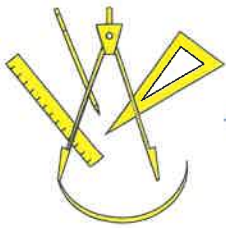
- Initial Offer Letter
- Metes and Bounds and Plat (proposed right of way to be acquired highlighted in yellow, located within appraisal report)
- Appraisal Report prepared by: Leonel Garza, III dated 12/14/2023
- Acknowledgement of Receipt of Appraisal Report
- Land Owner Bill of Rights
- Title Commitment
- Sample Deed
- Brochures ("State Purchase of Right of Way")

Please return the signed Acknowledgement of Receipt to our office at L&G Engineering, 900 S. Stewart Road, Suite 10, Mission, Texas 78572.

Should you have any questions or need additional information, please do not hesitate to contact me at (956) 585-1909.

Sincerely,

Fernando Herrera,
Right of Way Administrator



L&G Engineering

Transportation Consultants

January 24, 2024

Via Certified Mail, Return Receipt Requested,
No. 7021 2720 0003 5005 4282

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

ROW CSJ: 0921-02-406
Parcel ID: 43
From: Business 83
To: Nolana Loop

Jorge Villanueva dba McAllen Auto Mart
2416 S 23rd Street
McAllen, Texas 78503

Dear Mr. Jorge Villanueva:

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 **\$23,494.00** for the Property, which includes **\$19,157.00** for the Property to be purchased and **\$4,337.00** 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 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 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. Fence – Chain Link	\$1.00
C. Rolling Gate – Chain Link	\$1.00
D. Sign – Sign	\$1.00
E. Landscaping – Oak Trees	\$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 requests 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 question 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 signatory

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

TABULATION OF VALUES (continued)

Parcel: 43

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:	12/14/2023			Recommended Value
Appraiser's Name:	Leonel Garza III			
Value of Whole Property	\$241,659.00			\$241,659.00
Parcel Area: 0.019 ac.				
VALUE FOR PARCEL				
Land: per_sf. \$5.50	\$4,631.00			\$4,631.00
Easement	\$0.00			\$0.00
Improvements	\$14,526.00			\$14,526.00
Net Damages or (Enhancements)	\$4,337.00			\$4,337.00
OAS Value(s)	\$0.00			\$0.00
TOTAL COMPENSATION	\$23,494.00			\$23,494.00

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

TABULATION OF VALUES (continued)

Parcel: 43

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 2, 2023
Report Dated: December 14, 2023
Review Appraiser: Brian Cade
Effective Date of Review: December 15, 2023
TxDOT Review Appraiser: N/A
Report Received at TxDOT:

Parcel 43 appears to be a parcel taking of 0.019 of an acre (842) sf. parcel of land being a part or portion of the East 275 feet of the South 80 feet of the North ½ of the South ½ of Lot 4, Block 35, Alamo Land and Sugar Company Subdivision, Hidalgo County, Texas, according to the map or plat thereof recorded in Volume 1, Pages 24-25, Map Records of 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 commercial improvements is owned by Jorge Villanueva dba McAllen Auto Mart. The highest and best use is for commercial use.

Three (3) recent comparable sales are utilized to value the whole property at \$5.50 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 Jorge Villanueva dba McAllen Auto Mart to be \$4,631.00 and Improvements owned by Jorge Villanueva dba McAllen Auto Mart to be \$14,526.00 and Cost to Cure Damages to be \$4,337.00 totaling \$23,494.00.

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 \$23,494.00 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: 43

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: 2023.12.15 14:15:58 -06'00'

12/15/2023

Reviewing Appraiser

Date

Contract Reviewing Appraiser (if applicable)

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

RMB

1/8/24

County/City Representative

Date

ROW Staff Representative

Date

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

REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: 701 N Cesar Chavez Road, San Juan, Texas District: Pharr
 Property Owner: Jorge Villanueva dba McAllen Auto Mart Parcel: 43
 Address of Property Owner: 2416 S 23rd Street, McAllen, Texas 78503 ROW CSJ: 0921-02-406
 Occupant's Name: Jorge Villanueva dba McAllen Auto Mart 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 \$23,494 as of October 2, 2023, based upon my independent appraisal and the exercise of my professional judgment;

That on October 2, 2023, I personally inspected in the field the property herein appraised; that I afforded Jorge Villanueva dba McAllen Auto Mart, 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 1, 2023;

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 .

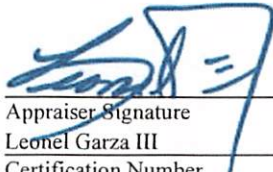
I certify to the best of my knowledge and belief:

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: December 14, 2023

To the best of my knowledge, the value does not include any items which are not compensable under State law.	
Brian Cade <small>Digitally signed by Brian Cade DN: cn=Brian Cade, o=RGV Appraisal Services, ou, email=brian@rgvappraisals.com, c=US Date: 2023.12.15 14:15:24 -0600</small>	12/15/2023
Reviewing Appraiser	Date

