

L&G Engineering

Transportation Consultants

August 28, 2024

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. 97
Cesar Chavez Phase II: From: Business 83 To: Nolana Loop

Dear Commissioner Cantu:

Attached herewith is a counter-offer as submitted by Mr. Jesus Perales, owner of Parcel 97 on August 26, 2024. 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 **\$51,903.00** 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

42 40411
12 1 323-2511



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.: 97

Owner's Name: Monari LLC., a Texas Limited Liability Company

Approved Offer: \$41,403.00

Date Offer Sent: 11/06/2023

Owner's Counteroffer: \$51,903.00

Date Counteroffer Received: 8/26/2024

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: 09/2024
Projected possession date, if settled is: 09/2024
Projected possession date, if condemned is: 03/2025
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 _____

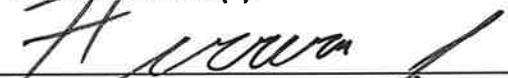
Analysis and Conclusion:

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

Parcel 97 is a partial acquisition containing 4,557 sq. ft. parcel of land situated in Hidalgo County, Texas and also being a part of a certain 5.0- acre tract out of Lot 5, ALAMO LAND AND SUGAR COMPANY'S SUBDIVISION. On November 6, 2023, Acquisition Provider, L & G Engineering, made an offer of \$41,403.00 to property owner Jesus Perales, via certified mail. On August 26, 2024, Mr. Perales submitted a counter offer for \$51,903.00. In his counter offer he states that his property had been undervalued, and that because of passage of time regarding the appraisal, prices have gone up for cost of land and materials. Also he states that that on page 4.0 of the appraisal there was no additional cost for labor and transportation. He also states obtained information from local realtors and builders that indicate the value of land and improvements are not consistent with today's cost. 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 \$10,860.00) 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 \$ 51,903.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator

8/28/2024

Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

M O N A R I L L C .

Monari, LLC, a Texas Limited Liability Company
2905 N. Cesar Chavez Road
San Juan, Texas 78589
C/O Jesus and Monica Perales, Owners

Hidalgo County
Highway: Cesar Chavez Rd. Section II
Parcel No. 97

RE: Offer Letter Dated November 6, 2023
Attn: Ms. Novelia Sanchez – ROW Agent
L&G Engineering Transportation Consultants

Dear Ms. Sanchez,

In your letter dated November 6, 2023, the Texas Department of Transportation and the County of Hidalgo offered us \$41,043.00 for our land and improvements located in Parcel No. 97. We are the owners of the three (3) consecutive properties on the west side of Cesar Chavez Road as per your project reference – Parcel Nos. 97, 98 and 99.

We agree with the future transportation improvement of the Cesar Chavez roadway and the anticipated betterment and safety of the vehicular circuitry of travel.

However, we do not agree with the acquisition offer of \$41,043.00. Please note that Mr. Garza's appraisal report was prepared on September 5, 2023, approximately eight (8) months ago. Land values and cost of construction materials have gone up slightly and we do not see any additional cost for labor and transportation on Page 4.0 of the appraisal report. Information obtained from local realtors and builders indicate that the values of our land and improvements shown on Page 4.0 of the report are not consistent with today's present costs. These values have been adjusted for those economic factors that directly affect market value. Our calculated values for land and improvements are as follow:

- Land Only – 4,557 SF x \$4.50 PSF.....\$20,507.00
- Improvement slightly adjusted and
with labor and transportation cost.....\$31,396.00
- Reconciled Final Value\$51,903.00

Note: No cost-to-cure damages are considered nor calculated in the counter offer amount as shown on Page 5.7 and 6.0 of the appraisal report since no depreciation was applied to the improvements within the proposed ROW taking on Page 4.0.



MHALL47@YAHOO.COM
(956) 460-0585
P.O BOX 5 SAN JUAN TX 78589

The appraiser did not allow any monetary consideration for all our yard grass and shrubbery within the proposed area of taking. We did not apply cost for such in the counter offer amount. For informational purposes only.

Please consider and approve our counter offer of \$51,903.00 so we may proceed with this acquisition transaction.

Sincerely,

for  _____
Jesus Perales

 _____
Monica Perales



Jose Castellano

From: Jose Castellano
Sent: Tuesday, December 12, 2023 4:25 PM
To: Jose Castellano
Subject: Pic







Jose Castellano

From: Jose Castellano
Sent: Tuesday, December 12, 2023 4:25 PM
To: Jose Castellano
Subject: Pic







L&G Engineering

Transportation Consultants

November 6, 2023

County: Hidalgo
CSJ: 0921-02-406
Highway: Cesar Chavez Section II
From: Business 83
To: Nolana Loop
Parcel: 97

RE: The purchase of a 0.105 of an acre (4,557 sf.) parcel of land situated in Hidalgo County, Texas, and also being a part or portion of a certain 5.0-acre tract out of Lot 5, Block 43, 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.

Monari, LLC, a Texas Limited Liability Company
2905 N. Cesar Chavez Road
San Juan, Texas 78589

Dear Sir/Madam:

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 9/5/2023
- 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



November 6, 2023

Via Certified Mail, Return Receipt Requested,
No. **7021 2720 0003 5005 3346**

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

ROW CSJ: 0921-02-406
Parcel ID: 97
From: Business 83
To: Nolana Loop

Monari, LLC, a Texas Limited Liability Company
2905 N. Cesar Chavez Road
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, Novelia Sanchez, 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 **\$41,043.00** for the Property, which includes **\$38,137.00** for the Property to be purchased and **\$2,906.00** 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. Pavement – Asphalt	\$1.00
B. Curbing - Concrete	\$1.00
C. Fencing – Chain Link	\$1.00
D. Columns – Cinder Block	\$1.00
E. Lights – Lights	\$1.00
F. Sprinkler System – Sprinkler System	\$1.00
G. Signage – Sign	\$1.00
H. Fencing – Grid	\$1.00
I. Lights – Light Poles	\$1.00
J. Landscaping – Tree	\$1.00
K. 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: 97 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: Commercial Federal Project: N/A
 Contract Fencing: N/A
 Appraised by: Leonel Garza III
 Date Appraised: 9/5/2023

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)
Monari LLC	Fee Simple	0.105 of an acre/ 4,557 square feet	\$15,950.00	N

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$15,950.00	\$22,187.00	\$0.00	\$2,906.00	\$41,043.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Pavement	Asphalt	\$1,823.00	\$1.00	N/A
B.	Curbing	Concrete	\$190.00	\$1.00	N/A
C.	Fencing	Chain Link	\$3,294.00	\$1.00	N/A
D.	Columns	Cinder Block	\$975.00	\$1.00	N/A
E.	Lights	Lights	\$225.00	\$1.00	N/A
F.	Sprinkler System	Sprinkler System	\$2,038.00	\$1.00	N/A
G.	Signage	Sign	\$6,375.00	\$1.00	N/A
H.	Fencing	Grid	\$42.00	\$1.00	N/A
I.	Lights	Lights Pole	\$1,875.00	\$1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
J.	Landscaping	Tree	\$4,500.00	\$1.00	N/A
K.	Landscaping	Tree	\$850.00	\$1.00	N/A
		Total	\$22,187.00	\$11.00	

TABULATION OF VALUES (continued)

Parcel: 97

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:	9/5/2023	Recommended Value
Appraiser's Name:	Leonel Garza III	
Value of Whole Property	\$801,986.00	\$801,986.00
Parcel Area: 0.105 ac.		
VALUE FOR PARCEL		
Land: per_sf. \$3.50	\$15,950.00	\$15,950.00
Easement	\$0.00	\$0.00
Improvements	\$22,187.00	\$22,187.00
Net Damages or (Enhancements)	\$2,906.00	\$2,906.00
OAS Value(s)	\$0.00	\$0.00
TOTAL COMPENSATION	\$41,043.00	\$41,043.00

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

TABULATION OF VALUES (continued)

Parcel: 97

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: March 21, 2023
Report Dated: September 5, 2023
Review Appraiser: Brian Cade
Effective Date of Review: September 7, 2023
TxDOT Review Appraiser: N/A
Report Received at TxDOT:

Parcel 97 appears to be a parcel taking of 0.105 of an acre (4,557) square feet parcel of land being a part or portion of a certain 2.50 acres more or less, to be carved out of the North 5 acres of the West 15 acres of the North 20 acres of Lot 1, Block 40, Alamo Land & Sugar Company's Subdivision of lands in Porcion 72, Los Torritos, Santa ana and El Gato Grants, Hidalgo County, Texas.

This parcel is located along the west side of Cesar Chavez Road within the San Juan ETJ Area (outside of City limits). The whole property containing a commercial building is owned by Monari LLC. The highest and best use is for Commercial Use.

For valuation purposes, a larger economic unit of 4.81 acres (net) is established by the appraiser based on current trends along Cesar Chavez Road. All improvements on the economic unit and within the acquisition are owned by Monari LLC.

Three (3) recent comparable sales are utilized to value the whole property at \$3.50 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 Monari LLC to be \$15,950.00, improvements owned by Monari LLC are \$22,187.00 and the cost to cure damages is \$2,906.00 totaling \$41,043.00.

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 \$41,043.00 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: 97

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: 2023.09.07 14:34:30 -0500

9/7/2023

Reviewing Appraiser

Date

Contract Reviewing Appraiser (if applicable)

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values



County/City Representative

9/27/23
Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS COURT
ON: 1/17/23 