

L&G Engineering

Transportation Consultants

October 16, 2018

Hon. David Fuentes
Attn: Jorge Pena, R.P.I.C.
Hidalgo County Commissioner, Pct. #1
1902 Joe Stephens Ave. Suite 1
Weslaco, Texas 78599

RE: County: Hidalgo
TxDOT CSJ No. 0921-02-356
Mile 6 W Rd., (Westgate Ave.)
Parcel No. 44C

Dear Mr. Pena:

Attached herewith is a counter-offer as submitted by Juanita S. Basaldua, owner of Parcel 44C on October 10, 2018. 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 legal and cost savings issue and a timing issue due to the imminent "let" date. 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 **\$4,961.00** 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,

Luana Gonzalez
Right of Way Administrator

Attachments: As noted.

cc: File
Carlos Peralez, PE



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0921-02-356

County: Hidalgo

Highway: Mile 6W

Project Limits: From Mile 9 North to Mile 11

Parcel No.: 44C

Owner's Name: Juanita S. Basaldua

Approved Offer: \$2,722.00

Date Offer Sent: 08/20/2018

Owner's Counteroffer: \$4,961.00

Date Counteroffer Received: 10/10/2018

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
b. Other: None

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 \$12,000.00
b. Approximate additional cost to litigate through jury trial \$15,000.00
c. Other: _____

4. Timing Issues

- a. Maintain project schedule: 04/2019
Possession of this property is needed by: 04/2019
Projected possession date, if settled is: 12/2018
Projected possession date, if condemned is: 02/2019
Letting date: 04/2019
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 _____

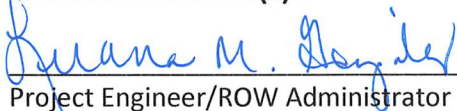
Analysis and Conclusion:

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

Parcel 44C is a partial acquisition containing 0.037 Acres of land , more or less, out of 2.02 acres of Farm Tract 197, Block 180, except 0.50 acres West Tract Subdivision, Hidalgo County, Texas. On August 20, 2018, Acquisition Provider (L&G Engineering) made offer of \$2,722.00 including damages to purchase the property to Juanita S.Basasdua. On October 10, 2018 the property owner submitted a counter offer requesting an additional \$2,239.00 for a total of \$4,961.00. In her counter offer letter she stated she did not believe the value of North Alamo Water Supply Corporation's easement should be deducted from her land value. Based on the information provided within the counter offer and discussion by the acquisition team it is recommended that the Administrative Settlement be approved. Also, the cost and length of time associated with a condemnation would far surpass the counter offer. We believe that the proposed counter offer is within a reasonable range.

This administrative settlement of \$ 4,961.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):


Project Engineer/ROW Administrator

10/16/18
Date


RPIC/Authorized Pct. Representative

10/17/18
Date

COUNTY APPROVAL:

County Judge

Date

October 10, 2018

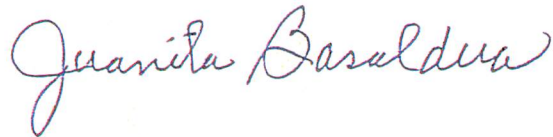
To: Fernando Herrera, Jr.
L&G Engineering
900 S. Stewart Road, Ste. 10
Mission, Texas 78572

RE: Counter Offer for Parcels 44B and 44C
Mile 6 West Project
Hidalgo County, Texas

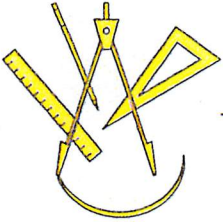
Dear Mr. Herrera,

I received three offers for my property located along Mile 6 West needed for the road widening project. This letter is to inform you that I will accept your offer of \$9,952.00 for Parcel 44A however I do not accept your offer of \$1,961.00 for Parcel 44B nor do I accept \$2,722.00 for Parcel 44C. Your offers for Parcel 44B and 44C include a large portion of the land value going to North Alamo Water Supply. In the previous appraisal only token values were given to NAWS. I am asking for an additional \$1,961 for parcel 44B and an additional \$2,239 for Parcel 44C to recoup the value given to the easement. I will accept \$3,922.00 for Parcel 44B and \$4,961.00 for Parcel 44C. The grand total for all my properties is \$18,835.

Respectfully Submitted,



Juanita S. Basaldua
1728 W. 10 North
Weslaco, Texas 78596



L&G Engineering

Transportation Consultants

September 18, 2018

Hidalgo County
Mile 6 West: From Mile 9 N to Mile 11 N
RCSJ: 0921-02-356
Parcel No. 44C

RE: The purchase of 1,612 square feet of land, more or less, out of 2.02 acers of Farm Tract 197, Block 180, except 0.50 acres West Track Subdivision, Hidalgo County, Texas.

Juanita S. Basaldua
1728 W. 10 North
Weslaco, Texas 78596

Dear Ms. Basaldua:

Enclosed for your review and further processing are the following:

- Initial Offer Letter
- Metes and Bounds and Plat (located within appraisal report)
- Appraisal Report prepared by: John H. Malcom, Jr. dated 6/28/2018
- Acknowledgement of Receipt of Appraisal Report
- Land Owner Bill of Rights w/Supplement
- Title Commitment
- Sample Deed
- Brochures ("State Purchase of Right of Way")

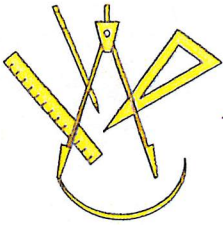
Please return signed Acknowledgement of Receipt to our office at L&G Engineering, 900 S. Stewart Road, Suite 10, Mission, Texas 78572.

If you have any questions, please contact me at (956) 585-1909.

Sincerely,

Luana M. Gonzalez,
Right of Way Administrator

LMG/nis



L&G Engineering

Transportation Consultants

September 18, 2018

Via Certified Mail, Return Receipt Requested

No. 7017 0190 0001 1658 8491

County: Hidalgo
Federal Project No.: N/A
Highway: Mile 6 West

ROW CSJ: 0921-02-356
Parcel: 44C
From: Mile 9 N
To: Mile 11 N

Juanita S. Basaldua
1728 W. 10 North
Weslaco, Texas 78596

Dear Ms. Basaldua:

In acquiring property for the highway system of 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, Fernando Herrera, a portion of your property located on Mile 6 West, 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 **\$ 2,722.00** for your property, which includes **\$ 2,722.00** 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 your 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 County to negotiate with the fee owner(s) of the real 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 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 County to permit owners who convey voluntarily to the County to thereafter retain the improvement(s), if they wish to do so. The retention values shown below are the 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 amount of 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. Drive - Caliche	\$1.00

If you wish to accept the offer based upon this appraisal, please contact Mr. Herrera 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 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 real property, you will be reimbursed for any fair and reasonable incidental expenses necessarily incurred in transferring title to the property for use by 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 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 County's determination on any claim for reimbursement.

You may be entitled to additional payments and services under the County's Relocation Assistance Program. It is emphasized, however, that any benefits to which you may be entitled under this program will be handled entirely separate from and in addition to this transaction. You will receive a brochure entitled "*Relocation Assistance*" which will inform you of eligibility requirements, payments and services which are available.

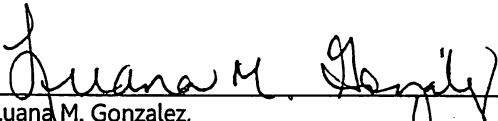
You have the right to discuss with others any offer or agreement regarding the County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records Act) as it may apply.

Attached is a copy of the Texas Department of Transportation brochure entitled "*Right of Way Purchase*" which we trust will give you a better understanding of the procedures followed by the County in purchasing property. We respectfully request the opportunity to meet with you or to otherwise discuss and answer any questions you may have regarding the details of the type of facility to be built, or concerning the County's offer or proposed purchase transaction. Also, please do not hesitate to contact Mr. Herrera at the telephone number provided above regarding any question you may have.

Please see the enclosed copy of the "*Texas Landowner Bill of Rights*."

Finally, we enclose copies of all appraisal reports relating to your property being acquired which were prepared in the ten (10) years preceding the date of this offer and produced or acquired by the County, including the appraisal on which this offer is based.

Sincerely,



Luana M. Gonzalez,
Right of Way Manager or other signatory

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

314-3685

TABULATION OF VALUES

Parcel: 44C Highway: Mile 6 West Road ROW CSJ: 0921-02-356
 Taking Type: Partial District: Pharr
 Size of Remainder: 1.828 Acres County: Hidalgo
 Type of Property: Improved//Commercial
 Contract Fencing: N/A
 Appraised by: John H. Malcom, Jr.
 Date Appraised: 5-1-18

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
Hidalgo County Precinct No. 1	20%	ROW Acquisition Expenses

Interest Owner	Acquisition Interest	Land Area	Value	Lease (Y/N)
Juanita S. Basaldua North Alamo Water Supply Corporation	Fee Simple	1,612 sf.	\$2,597.00	No
	Easement	1,307 sf.	2,239.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$4,836.00	\$125.00	\$0.00	\$0.00	\$4,961.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Drive	Caliche	\$125.00	\$1.00	N/A

~~4,836.00~~
2,122.00

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		Total	\$125.00		

TABULATION OF VALUES (continued)

Parcel: 44C

Highway: Mile 6 West Road

ROW CSJ: 0921-02-356

III. Damages and Enhancements

Total Non-Exempt Damages	Enhancements	Exempt Damages	Net Damages
\$0.00	\$0.00	\$0.00	\$0.00

IV. Sign Values

Item No.	Sign Owner	Type Construction	Improvement Value	Retention Value	Bisect. Cat.
N/A	N/A	N/A	N/A	N/A	N/A
Total			\$0.00	\$0.00	

V. Recapitulation

Date:	5-1-18	Recommended Value
Appraiser's Name:	John H. Malcom, Jr.	
Value of Whole Property	\$249,468.00	\$249,468.00
Parcel Area: 1,612 sf.		
VALUE FOR PARCEL		
Land: per sf. 119 sf. unencumbered @ \$3.00 and encumbered 1,493 sf. @\$1.50 sf	358.00 2,239.00	358.00 2,239.00
Easement 1,493 sf. @1.50 sf.	\$2,239.00	\$2,239.00
Improvements	\$125.00	\$125.00
Net Damages or (Enhancements)	\$0.00	\$0.00
OAS Value(s)	\$0.00	\$0.00
TOTAL COMPENSATION	\$4,961.00	\$4,961.00

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

TABULATION OF VALUES (continued)

Parcel: 44C

Highway: Mile 6 West Road

ROW CSI: 0921-02-356

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: John H. Malcom, Jr.
Effective Date of Report: May 1, 2018
Report Dated: June 28, 2018
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: July 10, 2018

Parcel 44C is a partial taking of 0.037 acres (1,612 sf.) square feet out of a 2.02 acres of Farm Tract 197, Block 180, except 0.50 acres of West Tract Subdivision, Volume 2, Pages 34-37, Map Records, Hidalgo County, Texas. Said Tract is vested to Juanita S. Basaldua by virtue of Warranty Deed dated July 31, 1978, recorded in Volume 1589, Page 592, Deed Records of Hidalgo County, Texas and by Affidavit -Heirs of Ernesto Basaldua dated September 21, 2012, Document No. 2344781, Official Records, Hidalgo County, Texas.

This parcel is located at the northwest corner of Mile 6 West Road and Mile 10 North Road, Weslaco, Texas. The subject property consists of a net 1.865 acres with dimensions of 219 feet depth by 371 feet of frontage. The whole property is improved with a single family residence that is not impacted by the proposed acquisition. The only site improvement on this parcel is a portion of caliche drive that is appraised according. The highest and best use is for commercial purposes. The whole property is encumbered by a utility easement owned by North Alamo Water Supply Corporation.

The appraiser has selected four (4) commercial sales to value the unencumbered portion of the whole property at \$3.00 per sf. The acquisition of 1,612 sf. is encumbered with the easement owned by North Alamo Water Supply Corporation. Since the fee owner does not enjoy the full bundle of rights within the easement area, the appraiser estimates that the amount of rights taken amount to 50% of the fee value or \$1.50 per sf. Thus, the encumbered fee portion is valued at \$1.50 per sf. and the utility easement is also valued at \$1.50 per sf. There are no market damages to the remainder land.

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 John H. Malcom, Jr. 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 4,961.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

A retention of \$1.00 is applied to the caliche drive on this parcel in order to encourage retention.

TABULATION OF VALUES (continued)

Parcel: 44C

Highway: Mile 6 West Road

ROW CSJ: 0921-02-356

VIII. Conditions

Values for signs, if any, are applicable only if sign owner has compensable interest.

Fencing is applicable only to actual cost or lump sum fencing on 90-10 Right of Way projects and State cost participation in fences to be in accordance with State's Right of Way Manual.

The values indicated hereon have been approved on the basis that all improvements within the taking will be acquired in the name of the State through negotiation.

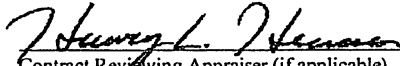
IX. Reviewing Appraisers' Statements

Reviewing Appraiser's Statement

It is my opinion that the appraiser's report for this parcel appears adequately supported and in compliance with all appropriate appraisal standards, laws, and regulations, and I recommend this appraisal for use by the appropriate Agency Official and his/her assigns. I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of the parcel. To the best of my knowledge, the value does not include any items that are not compensable under State law.

Reviewing Appraiser

Date



Contract Reviewing Appraiser (if applicable)

7-16-18
Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values



County/City Representative

9/14/18
Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS' COURT
ON: 11/15/16 