

# L&G Engineering

Transportation Consultants

February 11, 2019

The Honorable Joe Flores  
Attn: Norma Ceballos, R.P.I.C.  
Hidalgo County Commissioner, Pct. #3  
724 Breyfogle Rd.  
Mission TX. 78574

RE: County: Hidalgo  
ROW CSJ No. 0921-02-344  
Mile 3 Road: from Tom Gill to Goodwin Road  
Parcel No. 32

Dear Commissioner Flores:

Attached herewith is a counter-offer as submitted by Ana A. Mercado a.k.a. Anna M. Garza owner of Parcel 32 on February 7, 2019. 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 **\$11,000.00** 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 M. Gonzalez  
Right of Way Administrator

cc: File  
Attachments

INVOICE RECEIVED BY  
NBW ON 2/25/19  
GOODS/SERVICES RECEIVED BY  
Car Flores ON 2/11/19

9-1315-431-00-123-051-0-721



## HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

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ROW CSJ:0921-02-344

County: Hidalgo

Highway: Mile 3 Road

Project Limits: Tom Gill Road to Goodwin Road

Parcel No.:32

Owner's Name: Ana A. Mercado a.k.a. Anna M. Garza

Approved Offer: \$6,605.00

Date Offer Sent: 08/17/2018

Owner's Counteroffer: \$11,000.00

Date Counteroffer Received: 02/07/2019

### Factors considered in evaluation:

1. Valuation Issues

- a.  Reconciliation of all available appraisals, including Owner's.
- b.  Other: \_\_\_\_\_

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: 8/2020  
Possession of this property is needed by: 8/19  
Projected possession date, if settled is: 3/19  
Projected possession date, if condemned is: 8/19  
Letting date: 8/2020
- 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)

Being a 8,219 square foot or 0.1887 of an acre tract of land situated in Hidalgo County, Texas and being out of Lot 1, Block 1 of the Texan Gardens Subdivision. On August 17, 2018, Acquisition Provider (L&G Engineering) made an offer of \$6,605.00 to purchase the property to Ana A. Mercado. We know now that she is Anna M. Garza after marriage. However, she is now a widow. After several contacts, Ms. Garza submitted her counter offer of \$11,000.00 on February 7, 2019. Mrs. Garza feels that her counteroffer is justifiable being that her property is a corner property and the comparables are not. She also states that her property is located on two highly traveled roadways which are Western Road and Mile 3. She also explains that her property will be left in an irregular shape after the acquisition. Also states that she will have to re-survey the remainder after the acquisition since we only survey the portion needed to build the road. She has had offers in the past and has turned them down as well. Mrs. Garza hopes that the county considers her counteroffer to avoid condemnation which would cost her and the county additional monies and delay the construction of this project. Based on the information provided within the counter offer and discussion by the acquisition team it is recommended that the Administrative Settlement be approved. We believe that the proposed counter offer is within a reasonable range.

This administrative settlement of \$ 11,000.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

**RECOMMENDATION(S):**

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

  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

**COUNTY APPROVAL:**

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

\_\_\_\_\_  
Date

February 7, 2019

Ana M. Garza  
906 East Mile 3 Road  
Mission, Texas 78573

Hidalgo County  
Mile 3 North Road Project  
RCSJ: 0921-02-344  
Parcel No. 32

Re: Offer Letter dated August 17, 2018

L&G Engineering  
Attn: Luana M. Gonzalez  
Right of Way Administrator

Dear Ms. Gonzalez:

I am in receipt of your offer letter dated 8/17/18 in which you are offering me \$6,605.00 for my property. This property is located at the northeast corner of Western Road and Mile 3 Road.

After reviewing your offer letter and Mr. Leonel Garza's appraisal report, I have determined that the amount of \$6,605.00 is not acceptable. The reasoning or basis for this rejection is as follows:

1. This roadway project is taking my presently rectangular property and leaving it in an irregular shape at the corner. This remainder requires for me to re-survey at my expense for any future residential or commercial development. This expense is not considered within the total offer.
2. The comparable sales utilized by the appraiser in his report are not corner properties as is my property. Parcel No. 32 is located on two highly traveled roads (Western and Mile 3). The square foot rate of my taking should be at no less than \$1.25 per square foot.

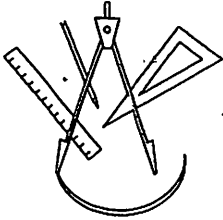
Considering the above-noted information, my counter offer for Parcel No. 32 is at \$11,000. If this amount is acceptable and approved, I am willing to execute the necessary conveyance documents so that this most important roadway project is constructed with no further delays. Furthermore, having to acquire this parcel thru the legal court process would possibly entail a higher expense for its acquisition and a delay to the construction project.

Please contact me at \_\_\_\_\_ or \_\_\_\_\_ if additional information is necessary or if my counter offer is approved so we may proceed accordingly.

Sincerely,



Ana M. Garza  
Land Owner – Parcel No. 32



# L&G Engineering

Transportation Consultants

August 17, 2018

**Via Certified Mail, Return Receipt Requested No.  
7011 2970 0004 3610 4784**

County: Hidalgo  
Federal Project No.: N/A  
Highway: Mile 3 North Road

ROW CSJ: 0921-02-344  
Parcel: 32  
From: Tom Gill Road  
To: Goodwin Road

Ana A. Mercado  
906 East Mile 3 Road  
Mission, Texas 78573

Dear Ms. Mercado:

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, Fernando Herrera, Jr., a portion of your property located on Mile 3 North 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 \$ 6,605.00 for your property, which includes \$ 6,605.00 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 Department/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 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 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. N/A	N/A

If you wish to accept the offer based upon this appraisal, please contact Fernando Herrera, Jr., 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 real 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 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.

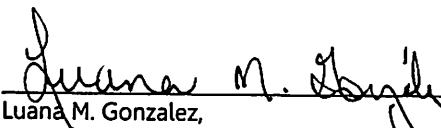
You have the right to discuss with others any offer or agreement regarding the Department's/County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records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

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 Department/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*."

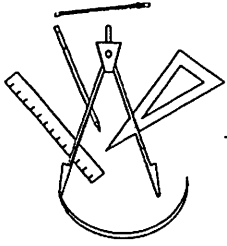
Finally, we enclose copies of all appraisal reports relating to your property being acquired which were prepared in the ten (10) years preceding the date of this offer and produced or acquired by the State/County, including the appraisal on which this offer is based.

Sincerely,

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

ENCLOSURES:

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



# L&G Engineering

Transportation Consultants

## INFORMATIONAL NOTICE TO OWNER

May 8, 2018

Via Certified Mail, Return Receipt Requested No.

7017 9090 0001 0611 4115

County: Hidalgo  
CSJ: 0921-02-344  
Highway: Mile 3 North Road  
From: Tom Gill Road  
To: Goodwin Road

To: Ana A. Mercado  
906 E. Mile 3 Road  
Mission, Texas 78573

Re: Parcel No.: 32

Dear Sir/Madam:

You are probably aware that the Texas Department of Transportation and Hidalgo County Precinct No. 3 will be making improvements to Mile 3 North Road from Tom Gill Road to Goodwin Road. Plans have progressed to the point that we wish to advise you that a portion of your property located along Mile 3 North Road in Hidalgo County, Texas, will be needed as right of way for the proposed improvement of the highway.

L&G Engineering has been hired by the County of Hidalgo to acquire the necessary right of way for this project.

An appraiser from the office of Leonel Garza Jr. and Associates, L.L.C. will be contacting you at a later date to make arrangements to appraise your property. At that time, you can schedule an appointment to accompany him/her, if you so desire.

We have attached for your information the "Texas Landowner's Bill of Rights" and "Purchase of Right of Way by Counties and Cities" booklet which explains the procedure to be followed in purchasing your property, as well as your rights as a landowner. If you have any questions, you may contact us at 900 S. Stewart Road, Suite 10, Mission, Texas 78572 at (956) 585-1909, or by telephone toll free at 1-866-585-1909.

Sincerely,

Luana M. Gonzalez,  
Right of Way Administrator

Enclosures  
cc: Leonel Garza Jr. and Associates LLC





Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		<b>Total</b>	\$0.00		

**TABULATION OF VALUES (continued)**

Parcel: 32

Highway: Mile 3 Road

ROW CSJ: 0921-02-344

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

**V. Recapitulation**

Date:	5-24-18	Recommended Value
Appraiser's Name:	Leonel Garza III	
Value of Whole Property	\$356,000.00	\$356,000.00
Parcel Area: 0.1887 Acres		
<b>VALUE FOR PARCEL</b>		
Land: per \$35,000 Acre	\$6,605.00	\$6,605.00
Easement	\$0.00	\$0.00
Improvements	\$0.00	\$0.00
Net Damages or (Enhancements)	\$0.00	\$0.00
OAS Value(s)	\$0.00	\$0.00
<b>TOTAL COMPENSATION</b>	<b>\$6,605.00</b>	<b>\$6,605.00</b>

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

**TABULATION OF VALUES (continued)**

Parcel: 32

Highway: Mile 3 Road

ROW CSJ: 0921-02-344

**VI. Comments and Conclusions on Values in the Appraisal Report**

**Appraiser: Leonel Garza III**  
**Effective Date of Report: May 24, 2018**  
**Report Dated: August 2, 2018**  
**Review Appraiser: Harvey L. Heerssen**  
**Effective Date of Review: August 8, 2018**

Parcel 32 is a partial taking of 0.1887 acres (8,219 sq. ft.) parcel of land out of Lot 1, Block 1, Texas Gardens Subdivision, as recorded in Volume 8, Pages 57 & 58, Map Records of Hidalgo County, Texas, being out of a tract of land of conveyed by Wraparound Warranty Deed with Vendor's Lien dated January 16, 1985, from Dean C. Sandy and wife, Imogene F. Sandy to Ana A. Mercado, as described in Volume 2083, Page 101 of the Official Records, Hidalgo County, Texas.

The whole property is located at the northeast corner of Mile 3 Road and Western Road in Hidalgo County, Texas. The whole property consists of 9.60 acres and is vacant land. The appraiser Leonel Garza III has selected three (3) recent sales similar to the subject in highest and best use and location to value the whole property at \$35,000 per acre. The part taken is properly valued as a pro-rata part of the whole. 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 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 value of \$6,605.00 be approved for negotiations and acquisition.

**VII. Justification and Explanation for Credit if Retained.**

Retentions are not applicable as subject acquisition is vacant land.

TABULATION OF VALUES (continued)

Parcel: 32

Highway: Mile 3 Road

ROW CSJ: 0921-02-344

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

Henry L. Peterson  
Contract Reviewing Appraiser (if applicable)

8-9-18  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

X. Approval of Values

Ramon Marcia  
County/City Representative

8/14/18  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

APPROVED BY  
COMMISSIONERS' COURT  
ON: 7/03/18 grs