

# L&G Engineering

Transportation Consultants

April 3, 2019

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. 51

Dear Mr. Pena:

Attached herewith is a counter-offer as submitted by Norma & Gustavo Hernandez, owner of Parcel 51 on December 20, 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 **\$55,500.00** 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,

Fred Herrera  
Right of Way Administrator

Attachments: As noted.  
cc: File  
Carlos Peralez, PE

Gustavo & Norma Hernandez  
4519 N. Westgate Dr. Weslaco, Tx. 78599  
956-351-0700 [hernandezg475@yahoo.com](mailto:hernandezg475@yahoo.com)  
[gustavoh75@yahoo.com](mailto:gustavoh75@yahoo.com)



12/20/2018

Robert Garcia  
L&G Engineering

Dear Robert Garcia,

This is to inform you, we are not accepting the offer that was submitted for the damages and land being acquired for the road expansion. The offer that was given by your adjuster was for the amount of \$46, 589.00, however the estimate that was submitted to you and the adjuster was for the amount of \$ 61, 770.00.

As per your recommendation, it is best to hold off on rebuilding the fence until the completion of the project. There is still not a definite timeframe as to when this project will be completed, therefore the cost of the material to rebuild, land, and salary of the contractor, will increase. Not to mention, this is placing my children and animals are risk for danger until this project is done, as there will not be a fence to protect them.

With that being said, we are willing to work with you and the City and agree to settle for the amount of \$55, 500.

Sincerely,

Gustavo & Norma Hernandez



Prosperity Homes & Fences

Jorge Heredia  
D.B.A  
(956) 221-4371  
408 Sunset Blvd Donna Tx 78537  
prosperityhomes@yahoo.com

Contractor Invoice

To: GUSTAVO HERNANDEZ  
Phone: (956) 351-0100  
Address: 4519 N WESTGATE  
WESUSCO TX 78599  
Date: 08/25/2018

Job performed at: \_\_\_\_\_  
Client Name: \_\_\_\_\_  
Phone: \_\_\_\_\_

Terms: COLUMN FENCE Our Bid# \_\_\_\_\_  
W/ ELECT. & REMOTE CONTROL  
SYST. Cost



Description Of Work:

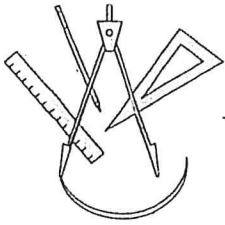
|  |
|--|
| <p>QUITAR LAS COLUMNAS QUE EXISTEN Y RECUPERAR<br/>FACHADAS DE PIEDRA, TODO VA PONERSE NUEVO SON<br/>26 COLUMNAS CON ZAPATAS 30" X 36", PONER<br/>BLOCK # 08 VACIADAS CON CONCRETO, CON TUBOS 2 7/8"<br/>HORIZONTALES. INSTALAR CUCES, INSTALACION DE<br/>DE MOTORES, PUERTAS YA PROGRAMADA ENTRADA Y<br/>SALIDA</p> <p>* LAS PIEDRAS QUE SE QUITA SE VA A PONER NUEVAS DE LA<br/>PROPIEDAD.</p> <p>LA FACHADA DE LAS COLUMNAS SON CON PIEDRA COMO<br/>LO PRESENTA SU DISEÑO</p> <p>* CERCOS TEMPORALES DE TIEMPO EN CONSTRUCCION<br/>(CHAIN LINK (6') (1") R. GATE 14" OPEN</p> <p style="text-align: right;">COST TOTAL 61770<sup>00</sup></p> |
|--|

THE ABOVE WORK WAS PERFORMED IN ACCORDANCE WITH THE DRAWINGS  
AND SPECIFICATION AS SHOWN ABOVE AND WAS COMPLETED IN A  
SUBSTANTIAL WORKMAN LIKE MANNER FOR THE AGREED SUM OF SIXTY ONE THOUSAND  
SEVEN HUNDRED SEVENTY DOLLARS  
DOLLARS \$ 61770<sup>00</sup> IN ACCORDANCE WITH OUR AGREEMENT

PROPOSAL 007 NUM.

MONTH 08 DAY 25 YEAR 2018

  
\_\_\_\_\_  
JORGE HEREDIA  
  
\_\_\_\_\_  
GUSTAVO HERNANDEZ



# L&G Engineering

Transportation Consultants

October 29, 2018

Hidalgo County  
Mile 6 West: From Mile 9 N to Mile 11 N  
RCSJ: 0921-02-356  
Parcel No. 51

RE: Purchase of 0.102 acres of land, more or less, out of 5.60 acres of Farm Tract 198, West Tract Subdivision, Hidalgo County, Texas

Norma Velasquez Hernandez & Gustavo Hernandez, Jr.  
4519 N. Westgate  
Weslaco, TX 78596

Dear Mr. & Mrs. Hernandez:

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 9/04/2018
- Acknowledgement of Receipt of Appraisal Report
- Land Owner Bill of Rights w/Supplement
- Title Commitment
- Sample Deed
- Brochures ("State Purchase of Right of Way")

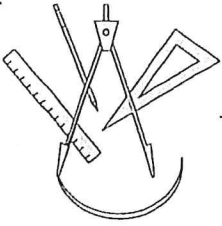
Please return signed Acknowledgement of Receipt to our office at L&G Engineering, 900 S. Stewart Road, Suite 10, Mission, Texas 78572.

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

Sincerely,

  
Luana M. Gonzalez  
Right of Way Administrator

Enclosures



# L&G Engineering

Transportation Consultants

Date: 10/29/2018

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

ROW CSJ: 0921-02-356  
Parcel: 51  
From: Mile 9 N  
To: Mile 11 N

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED NO. 7018 1130 0002 1338 547

Norma Velasquez Hernandez and Gustavo Hernandez, Jr.  
4519 N. Westgate  
Weslaco, Texas 78596

Dear Mr. & Mrs. Hernandez:

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, Robert Garcia, 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. Based on the attached deed it is determined that you are now the new property owner.

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 **\$46,589.00** for your property, which includes **\$22,699.00** for the property to be purchased and **\$23,890.00** 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. Masonry Pipe -Fence | \$1.00                                     |
| B. Wire Mesh-Fence     | \$1.00                                     |
| C. Concrete-Drive      | \$1.00                                     |
| D. Asphalt-Drive       | \$1.00                                     |

If you wish to accept the offer based upon this appraisal, please contact Mr. Garcia 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.

Form ROW-N-IOLPT (Rev. 11/13) Page 1 of 2



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.

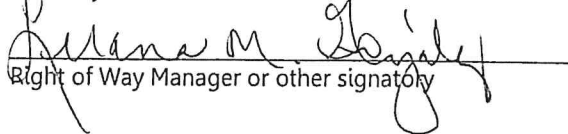
You have the right to discuss with others any offer or agreement regarding the County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records Act) as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

  
Right of Way Manager or other signatory

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

**TABULATION OF VALUES**

Parcel: 51 Highway: Mile 6 West Road ROW CSJ: 0921-02-356  
 Taking Type: Partial District: Pharr  
 Size of Remainder: 5.368 Acres. County: Hidalgo  
 Type of Property: Improved/Residential Development  
 Contract Fencing: N/A  
 Appraised by: John H. Malcom, Jr.  
 Date Appraised: 7-26-18

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) |
|--|----------------------|-------------|------------|-------------|
| Norma Velasquez Hernandez & Gustavo Hernandez, Jr. | Fee Simple           | 0.102 Acres | \$2,040.00 | No          |

**I. Appraised Values**

| Land Value | Improvement Value | Sign Value | Damages/Enhancements | Total Value |
|------------|-------------------|------------|----------------------|-------------|
| \$2,040.00 | \$20,659.00       | \$0.00     | \$23,890.00          | \$46,589.00 |

**II. Improvements**

| Item No. | Improvement Type | Type Construction | Improvement Value | Retention Value | Bisection Category |
|----------|------------------|-------------------|-------------------|-----------------|--------------------|
| A.       | Fence            | Masonry & Pipe    | \$18,480.00       | \$1.00          | N/A                |
| B.       | Fence            | Wire Mesh         | 43.00             | 1.00            | N/A                |
| C.       | Drive            | Concrete          | 1,699.00          | 1.00            | N/A                |
| D.       | Drive            | Asphalt           | 437.00            | 1.00            | N/A                |
|          |                  |                   |                   |                 |                    |
|          |                  |                   |                   |                 |                    |
|          |                  |                   |                   |                 |                    |

| Item No. | Improvement Type | Type Construction | Improvement Value | Retention Value | Bisection Category |
|----------|------------------|-------------------|-------------------|-----------------|--------------------|
|          |                  |                   |                   |                 |                    |
|          |                  |                   |                   |                 |                    |
|          |                  | <b>Total</b>      | \$20,659.00       |                 |                    |

**TABULATION OF VALUES (continued)**

Parcel: 51

Highway: Mile 6 West Road

ROW CSJ: 0921-02-356

**III. Damages and Enhancements**

| Total<br>Non-Exempt Damages | Enhancements | Exempt Damages | Net Damages |
|-----------------------------|--------------|----------------|-------------|
| \$15,416.00                 | \$0.00       | \$8,474.00     | \$23,890.00 |

**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**

|  |                     |  |  |                          |
|--|---------------------|--|--|--------------------------|
| <b>Date:</b>                                       | 7-26-18             |  |  | <b>Recommended Value</b> |
| <b>Appraiser's Name:</b>                           | John H. Malcom, Jr. |  |  |                          |
| <b>Value of Whole Property</b>                     | \$483,983.00        |  |  | \$483,983.00             |
| <b>Parcel Area: 0.102 Ac.</b>                      |                     |  |  |                          |
| <b>VALUE FOR PARCEL<br/>Land: per ac. \$20,000</b> | \$2,040.00          |  |  | \$2,040.00               |
| <b>Easement</b>                                    | \$0.00              |  |  | \$0.00                   |
| <b>Improvements</b>                                | \$20,659.00         |  |  | \$20,659.00              |
| <b>Net Damages or<br/>(Enhancements)</b>           | \$23,890.00         |  |  | \$23,890.00              |
| <b>OAS Value(s)</b>                                | \$0.00              |  |  | \$0.00                   |
| <b>TOTAL COMPENSATION</b>                          | \$46,589.00         |  |  | \$46,589.00              |

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

**TABULATION OF VALUES (continued)**

Parcel: 51

Highway: Mile 6 West Road

ROW CSJ: 0921-02-356

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

**Appraiser: John H. Malcom, Jr.**  
**Effective Date of Report: July 26, 2018**  
**Report Dated: September 4, 2018**  
**Review Appraiser: Harvey L. Heerssen**  
**Effective Date of Review: September 9, 2018**

Parcel 51 is a partial taking of 0.102 acres out of a 5.60 acres of Farm Tract 198, West Tract Subdivision, Volume 2, Pages 34 thru 37 Map Records, Hidalgo County Texas. Said tract is vested to Santana Rodriguez Ramos by virtue of Warranty Deed with Vendor Lien dated April 23, 2015, recorded in Document Number 2609131, Deed Records, Hidalgo County, Texas. Further research by the appraiser indicates that the current owner is Norma Velasquez Hernandez and Gustavo Hernandez, Jr.

This parcel is located along the west side of Mile 6 West Road, north of Mile 10 Road, in the ETJ of Weslaco, Texas. The whole property is improved land with a brick veneer residence with accessory and site improvements. The residence is not impacted by the proposed acquisition. Site improvements within the acquisition include a portion of the front masonry/pipe fence, side wire mesh fence, concrete and asphalt drives that are valued accordingly. The highest and best use is for residential purposes.

The subject whole property unit value of \$20,000 per acre is supported by five (5) residential sales similar to the subject. There are no market damages to the land but there are market damages to the masonry/pipe front fence, entry gate and gate openers as a result of the proposed acquisition. Cost to cure includes the estimated replacement cost for a new masonry/pipe fence, entry gates and gate openers on the remainder in order to restore the remainder to the same utility as existed in the before condition.

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. Negotiations to acquire this have been unsuccessful to date. Therefore, it is recommended that the total value of \$46,589.00 be approved for either re-negotiations and/or acquisition by Eminent Domain Proceedings.

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

Retentions of \$1.00 are applied to each site improvement in order to encourage retention and removal.

TABULATION OF VALUES (continued)

Parcel: 51

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

*Henry L. McManis*  
\_\_\_\_\_  
Contract Reviewing Appraiser (if applicable)

\_\_\_\_\_  
9-10-18  
Date

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

\_\_\_\_\_  
Date

X. Approval of Values

*Ramon Garcia*  
\_\_\_\_\_  
County/City Representative

*10/19/18*  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

APPROVED BY  
APPROVED BY  
COMMISSIONERS' COURT  
ON: *11/15/18* *gms*