

# L&G Engineering

Transportation Consultants

June 5, 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. 72 Pts. 1 & 2

Dear Mr. Pena:

Attached herewith is a counter-offer as submitted by Roberto Valladares, Jr. & Lucia Valladares, owners of Parcel 72 Pts. 1 & 2 on June 5, 2019. L & G Engineering has reviewed the aforementioned and hereby recommends that the 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 **\$2,500.00** be accepted.

Please review these documents and feel free to contact me Leo Salinas at (956) 585-1909 if you wish to discuss this matter personally.

Sincerely,

Luana M. Gonzalez  
Right of Way Administrator

Attachments: As noted.

cc: File

Carlos Peralez, PE



## HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

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**ROW CSJ:** 0921-02-356

**Highway:** Mile 6W

**Parcel No.:** 72 Pts. 1 & 2

**Owner's Name:** Roberto Valladares, Jr. & Lucia Valladares

**Approved Offer:** \$1,213.00

**Owner's Counteroffer:** \$2,500.00

**County:** Hidalgo

**Project Limits:** From Mile 9 North to Mile 11

**Date Offer Sent:** 05/07/2019

**Date Counteroffer Received:** 6/5/2019

**Factors considered in evaluation:**

1. Valuation Issues

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

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: 8/19  
Possession of this property is needed by: 8/19  
Projected possession date, if settled is: 7/19  
Projected possession date, if condemned is: 12/19  
Letting date: 8/19
- 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 \_\_\_\_\_

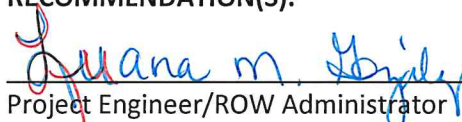
**Analysis and Conclusion:**

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

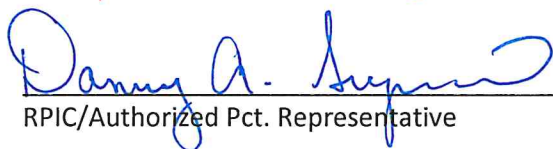
Parcel 72 Part 1 Being a 278 square foot or 0.0064 of an acre tract of land situated in the City of Weslaco, Hidalgo County, Texas, out of Farm Tract 236, West and Adams Tract Subdivision. Parcel 72 Part 2 Being a 1,633 square foot or 0.0375 of an acre tract of land situated in the City of Weslaco, Hidalgo County, Texas out of Farm Tract 236, West and Adams Tract Subdivision. On May 7, 2019, Acquisition Provider (L&G Engineering) made an offer of \$1,213.00 to purchase the property to Roberto Valladares, Jr. and Lucia J. Valladares . On June 5, 2019, the property owners submitted a counter offer requesting an additional \$1,287.00 for the total of \$2,500.00. Property Owners are counter-offering a very reasonable amount and feel that the compensation for their land and damages was not enough. 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. Also, the cost and length of time associated with a condemnation would far surpass the counteroffer. We believe that the proposed counter offer is within a reasonable range.

This administrative settlement of \$ 2,500.00  is /  is not recommended for approval as being reasonable, justified, prudent and in the public interest.

**RECOMMENDATION(S):**

  
Project Engineer/ROW Administrator

6/5/19  
Date

  
RPIC/Authorized Pct. Representative

6/6/19  
Date

**COUNTY APPROVAL:**

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

\_\_\_\_\_  
Date



**TABULATION OF VALUES**

Parcel: 72 Highway: Mile 6 West Road ROW CSJ: 0921-02-356  
 Taking Type: Partial District: Pharr  
 Size of Remainder: 13.8625 Acres County: Hidalgo  
 Type of Property: Vacant/Residential Development  
 Contract Fencing: N/A  
 Appraised by: John H. Malcom, Jr.  
 Date Appraised: 1-10-19

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)
Roberto Jr. & Lucia Valladares	Fee Simple	0.0439 Acres 1,911 sf.	\$1,098.00	No

**I. Appraised Values**

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$1,098.00	\$115.00	\$0.00	\$0.00	\$1,213.00

**II. Improvements**

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Drive	Caliche	\$115.00	\$1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		<b>Total</b>	\$115.00		

**TABULATION OF VALUES (continued)**

Parcel: 72

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

**V. Recapitulation**

<b>Date:</b>	1-10-19			<b>Recommended Value</b>
<b>Appraiser's Name:</b>	John H. Malcom, Jr.			
<b>Value of Whole Property</b>	\$118,107.00			\$118,107.00
<b>Parcel Area: 0.0439 Acres</b>				
<b>VALUE FOR PARCEL</b>				
<b>Land: per ac. \$25,000</b>	\$1,098.00			\$1,098.00
<b>Easement</b>	\$0.00			\$0.00
<b>Improvements</b>	\$115.00			\$115.00
<b>Net Damages or (Enhancements)</b>	\$0.00			\$0.00
<b>OAS Value(s)</b>	\$0.00			\$0.00
<b>TOTAL COMPENSATION</b>	\$1,213.00			\$1,213.00

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

**TABULATION OF VALUES (continued)**

Parcel: 72

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: January 10, 2019**  
**Report Dated: February 8, 2019**  
**Review Appraiser: Harvey L. Heerssen**  
**Effective Date of Review: February 10, 2019**

Parcel 72, Parts 1 and 2 are partial takings totaling 0.0439 acres (Part 1- 0.0064 acres and Part 2 -0.0375 acres) situated in the City of Weslaco, Hidalgo County, Texas, out of Farn Tract 236, West and Adams Tract Subdivision as recorded in Volume 2, Page 34 of the Map Records, Hidalgo County Texas. Said tracts of land being out of a 13.90 acre tract of land conveyed by Warranty Deed with Vendor's Lien, dated August 12, 2005, from Jose Villarreal to Roberto Valladares and wife, Lucia J. Valladares, as recorded in Document No. 1514099, Official Records, Hidalgo County, Texas.

This parcel is located along the east line of Mile 6 West Road north of Mile 11 North Road, Weslaco, Texas. The whole property contains 13.90 acres with acreage within the existing road right of way leaving a net whole property size of 13.662 acres. The property has no building type improvements containing only site improvements of fencing, gates and paving. The highest and best use is for residential purposes.

For valuation purposes, the appraiser establishes an economic unit of 4.0157 acres based on an economic depth consistent with the current market in the immediate area. The subject economic unit value of \$25,000 per acre is adequately supported by five (5) recent residential sales in this immediate market area. 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 \$1,213.00 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 in order to encourage retention and removal.

**TABULATION OF VALUES (continued)**

Parcel: 72

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

*Hewitt L. Newman*  
Contract Reviewing Appraiser (if applicable)

\_\_\_\_\_  
2-12-19

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

**X. Approval of Values**

*Richard F. Currier*  
County/City Representative

4/10/19  
Date

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

\_\_\_\_\_  
Date

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



# 1 REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: Mile 6 West N/ Mile 11 North Road  
Property Owner: Roberto Jr & Lucia Valladares  
Address of Property Owner: PO Box 332, Weslaco, Texas 78599  
Occupant's Name: N/A, unimproved  
Whole:  Partial:  Acquisition

ROW CSJ: RCSJ: 0921-02-356  
District: Pharr  
Parcel: 72  
Federal Project No: --  
Highway: Mile 6 West 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 \$1,213 as of, January 10, 2019 based upon my independent appraisal and the exercise of my professional judgment;

That on January 10, 2019 (date)(s), I personally inspected in the field the property herein appraised; that I afforded, Roberto Jr & Lucia Valladares the property owner or the representative of the property owner, the opportunity to accompany me at the time of the inspection; The property owner was contacted by certified mail and was afforded the opportunity to accompany me on the site visit. The owner was not present during the site visit.

That the comparables relied upon in making said appraisal were as represented by the photographs contained in the appraisal report and were inspected on January 10, 2019 and other (date)(s);

That I have not revealed and will not reveal the findings and results of such appraisal to anyone other than the proper officials of the Texas Department of Transportation 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 82<sup>nd</sup> Regular Legislative Session and finds as follows:

1. Is there a denial of direct access on this parcel? no denial of access for a highway improvement project (yes or no)
2. If so, is the denial of direct access material? not applicable (yes, no, or 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


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 analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions;

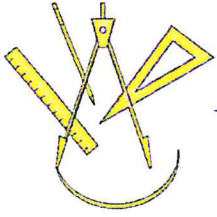
That I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved;

That my analyses, 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 noncompensable 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  
John H. Malcom, Jr., MAI, AI-GRS, SR/WA  
\_\_\_\_\_  
Certification Number 1320239-G  
February 8, 2019  
\_\_\_\_\_  
Date

To the best of my knowledge, the value does not include any items which are not compensable under State law.

  
\_\_\_\_\_  
Reviewing Appraiser  
02/11/2019  
\_\_\_\_\_  
Date



# L&G Engineering

Transportation Consultants

April 25, 2019

**Via Certified Mail, Return Receipt Requested  
No. 7018 1130 0002 1336 2822**

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

ROW CSJ: 0921-02-356  
Parcel: 72 Pts. 1 & 2  
From: Mile 9 N  
To: Mile 11 N

Roberto Valladares, Jr. & Lucia Valladares  
P.O. Box 332  
Weslaco, Texas 78599

Dear Mr. & Mrs. Valladares:

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 \$ 1,213.00 for your property, which includes \$ 1,213.00 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.

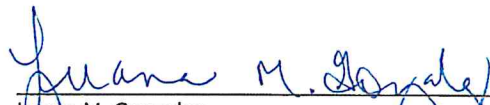
You have the right to discuss with others any offer or agreement regarding the County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records Act) as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

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

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

6/5/2019

Roberto Valladares, Jr. & Lucia Valladares  
PO BOX 332  
Weslaco, Texas 78599  
956-778-0089

Re: Mile 6 West: From Mile 9N to Mile 11N  
RCSJ: 0921-02-356  
Parcel No. 72 Pts. 1 & 2

L & G Engineering  
Transportation Consultants  
900 S. Stewart Rd., Ste 10  
Mission, Texas 78572


To whom it may concern:

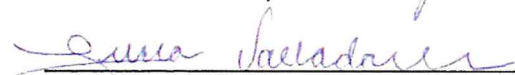
We received your letter dated April 30, 2019. We have reviewed your letter very carefully, including your offer. Unfortunately, we cannot accept your offer of \$1213 for the property to be acquired for the construction improvement of the above-referenced project for the reasons discussed below.

First, after carefully reviewing the appraisal report prepared by John H. Malcom, Jr., dated 02/08/19 we concluded that the piece of property to be acquired for the construction improvement mentioned above is a section of what will have frontage road access. Therefore, the value of our property will increase, hence we will be faced with possible paying slightly a higher tax bill for the improvement mentioned above. Second, in consideration of the estimated compensation amount of the property to be acquired we will be faced with the burden of paying taxes on what will be considered a personal income when we file our personal tax return at the end of the year. As we discussed in detail in our letter, these are our reasons of why we cannot accept your offer. However, to amicably settle this matter, we humbly request the counteroffer of \$2500.00 (two thousand five-hundred dollars and zero cents) in lieu of the land to be acquired for the improvement of your referenced project. We comfortably believe the counteroffer is fair.

If you have any questions about our counteroffer or any of the above is not clear, please do not hesitate to contact us. Our contact information is listed at the top of this letter. We look forward to hearing from you and anticipate a response at your earliest convenience.

Sincerely,

  
\_\_\_\_\_  
Roberto Valladares, Jr.

  
\_\_\_\_\_  
Lucia Valladares