

L&G Engineering

Transportation Consultants

October 17, 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. 71

Dear Mr. Pena:

Attached herewith is a counter-offer as submitted by Alfredo Guerra, Jr and Raul Guerra, owners of Parcels 71 on October 2, 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 **\$35,000.00** 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 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 6 W

Project Limits: From Mile 9 North to Mile 11

Parcel No.: 71

Owner's Name: Alfredo Guerra, Jr. & Raul Guerra

Approved Offer: \$25,505.00

Date Offer Sent: April 29, 2019

Owner's Counteroffer: \$35,000.00

Date Counteroffer Received: October 2, 2019

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
- b. Other: Parcel Owner feels land 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 \$12,000.00
- b. Approximate additional cost to litigate through jury trial \$15,000.00
- c. Other: _____

4. Timing Issues

- a. Maintain project schedule: 12/2019
Possession of this property is needed by: 11/2019
Projected possession date, if settled is: 11/2019
Projected possession date, if condemned is: 04/2020
Letting date: 12/2019
- 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 71 is a partial acquisition containing 1.0202 acres tract of land situated in Farm Tract 237, West and Adams Tract Subdivision in the City of Weslaco, Hidalgo County, Texas. On April 29, 2019 Acquisition Provider (L&G) made an offer of \$25,505.00 to purchase the property to Alfredo Guerra and Raul Guerra. On October 2, 2019 a counter offer was submitted for \$35,000.00. In the counter-offer Mr. Guerra stated that he and his brother feel their property is being undervalued. The County's appraiser valued the property at \$25,000 an acre. They believe land values have been rising in the last year and the Guerra's are asking \$35,000 for their property to be acquired by the county. 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 counter offer. We believe that the proposed counter-offer is within a reasonable range.

This administrative settlement of \$ 35,000.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator

10/17/19

Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

10/2/2019

Dear Mr. Salinas

RE: Mile 6 Parcel 71

Dear Mr. Salinas this letter is to inform you that Myself (Raul Guerra) and my brother (Alfredo Guerra JR) are rejecting the initial offer of \$25,000.00 we received by L&G Engineering. We are counteroffering \$35,000.00 based off the value of the land in the area. We believe that the land sales have gone up since last year. In good faith we are asking for the county to approve this counteroffer. We would like to settle this to avoid condemnation. We appreciate everything you can do for us in this matter.

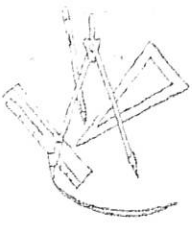
Respectfully,

Raul Guerra

Raul Guerra

Alfredo Guerra Jr.

Alfredo Guerra Jr.



L&G Engineering

Transportation Consultants

April 29, 2019

Certified Mail, Return Receipt Requested
No. 7018 1130 0002 1336 2877

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

ROW CSJ: 0921-02-356
Parcel: 71
From: Mile 9 N
To: Mile 11 N

Alfredo Guerra, Jr. & Raul Guerra
621 Tierra Prometida
Weslaco, Texas 78596

Dear Sirs:

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 **\$ 25,505.00** for your property, which includes **\$ 25,505.00** 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.	N/A	\$ 0.00

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.

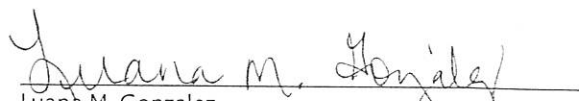
You have the right to discuss with others any offer or agreement regarding the County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records Act) as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

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
		Total	\$0.00		

TABULATION OF VALUES (continued)

Parcel: 71

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:	1-10-19			Recommended Value
Appraiser's Name:	John H. Malcom, Jr.			
Value of Whole Property	\$225,000.00			\$225,000.00
Parcel Area: 1.0202 Ac.				
VALUE FOR PARCEL Land: per ac. \$25,000	\$25,505.00			\$25,505.00
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
TOTAL COMPENSATION	\$25,505.00			\$25,505.00

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

TABULATION OF VALUES (continued)

Parcel: 71

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: January 25, 2019
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: January 26, 2019

Parcel 71 is a partial taking of 1.0202 acres situated in the City of Weslaco, Hidalgo County, Texas, out of Farm Tract 237, West and Adams Tract Subdivision as recorded in Volume 2, Page 34 of the Map Records, Hidalgo County Texas. Said tract of land conveyed by a Warranty Deed dated November 17, 2015, from Alfredo Guerra and Alfredo Guerra, Jr., to Alfredo Guerra, Jr., and Raul Guerra as recorded in Document No. 2737404, Official Records, Hidalgo County, Texas.

This parcel is located at the northeast corner of Mile 6 West Road and Mile 11 North Road, in the ETJ of Weslaco, Texas. The whole property is vacant land and contains 10 acres according to the survey sketch and the deed. However, the appraiser has determined the whole tract to be nine (9) acres as it appears there could be acreage in road right of way. The highest and best use is for residential purposes. The subject whole property unit value of \$25,000 per acre is adequately supported by five (5) recent residential sales.

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 \$25,505.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

Retentions are not applicable as subject parcel is vacant land.

TABULATION OF VALUES (continued)

Parcel: 71

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

J. Henry L. Newman
Contract Reviewing Appraiser (if applicable)

1-28-19
Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

Richard F. Lumbel
County/City Representative

4/10/19
Date

ROW Staff Representative

Date

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