

L&G Engineering

Transportation Consultants

August 12, 2022

The Honorable David Fuentes
Commissioner, Pct. 1
c/o Jorge Pena RPIC
1902 Joe Stephens Avenue
Weslaco, Texas 78599

RE: County: Hidalgo
RCSJ No. 0921-02-355
Parcel No. 9
MILE 6W: From :SH 107 To: Mile 14.5

Dear Commissioner Fuentes:

Attached herewith is a counter-offer as submitted by Mrs. Liana Leal, Mr. Zeleck Garcia, Mrs. Yurida Garcia and Mr. Omar Garcia owners of Parcel 9 on August 10, 2022. L & G Engineering has reviewed the aforementioned and hereby recommends that counter-offer **be approved**. Also attached is the N-9, Administrative Settlement Evaluation and Approval Form.

L & G Engineering believes the counter offer is within an acceptable range of value and we recommend that the counteroffer of **\$23,284.00** 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



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ: 0921-02-355

County: Hidalgo

Highway: Mile 6W

Project Limits: From SH 1077 to Mile 14.5

Parcel No.: 9

Owner's Name: Liana Leal, Zeleck Garcia, Yurida Garcia, Omar Garcia

Approved Offer: \$17,041

Date Offer Sent: 05/31/2022

Owner's Counteroffer: \$23,284.00

Date Counteroffer Received: 8/10/2022

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 \$15,000.00
- b. Approximate additional cost to litigate through jury trial \$20,000.00
- c. Other: _____

4. Timing Issues

- a. Maintain project schedule: 12/2022
Possession of this property is needed by: 10/2022
Projected possession date, if settled is: 10/2022
Projected possession date, if condemned is: 2/2023
Letting date: 3/2026
- 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 9 is a partial acquisition containing 10,263 sq. ft., parcel of land situated in Hidalgo County, Texas and also being a part or portion of a 5.01 acre tract of land out of Farm Tract 515 West and Adams Tract Subdivision. On May 31, 2022, Acquisition Provider (L&G) mailed an offer of \$17,041.00 to purchase the property to Liana Leal, Zeleck Garcia, Yurida Garcia and Omar Garcia. On August 10, 2022, the property owner submitted a counter offer in the amount of \$23,284.00. In their counter offer they stated they will be suffering damages from the ROW taking. They had on-going plans to develop the 5.01 acres into 1 acre tracts now their first tract adjacent to the road will not be a full acre. They also believe North Alamo Water Supply Corporation should only be compensated at 50 cents per sq.ft not \$1.00. 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. The difference between the approved value versus the property owner's counter offer is a difference of (\$6,246.00) does not warrant the risk and added expenses associated with standard eminent domain proceedings. Accepting said counter offer will help avoid project time delays, and associated condemnation proceedings, thus resulting in a cost saving to the county.

This administrative settlement of \$ 23,284.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.


RECOMMENDATION(S):



Project Engineer/ROW Administrator

8/15/22

Date



RPIC/Authorized Pct. Representative

8/09/22

Date

COUNTY APPROVAL:

County Judge

Date

August 10, 2022

Liana Leal and Zelek Garcia
Omar Garcia and Yuridia Garcia
P.O. Box 252
Edcouch, Texas 78538

Hidalgo County
Mile 6 West Road
RCSJ: 0921-02-355
Parcel NO. 09

RE: Offer Letter dated July 11, 2022

L&G Engineering
Attn: Bob Garcia
Right of Way Agent

Dear Mr. Garcia:

In your offer letter dated July 11, 2022, the Texas Department of Transportation and Hidalgo County are offering us \$17,041.00 for our land. We have reviewed the enclosed appraisal report and have determined to reject the County's offer. However, we are not contesting the value of the per square foot rate of the "Fee Land" interest at \$2.00 PSF.

The basis and reasoning for the rejection is because we have determined that the appraisal report is not considering any damages to our land remainder. Presently, our whole property consists of 5.01 acres. Our on-going plans are in process of subdividing and developing the 5.01 acres into ½ or one acre tracts. Due to the acquisition of 10,263 SF for the proposed expansion of Mile 6 W. Rd. project; we will not have an even partitioning of 5 one acre tracts. The ROW taking will damage our first tract adjacent to the present Mile 6 roadway. It has been estimated and calculated that this anticipated damage will penalize the future value of our frontage tract by approximately \$4,500.00 in today's Real Estate market.

Furthermore, the appraisal report indicates that North Alamo Water Supply Corporation has an easement on our land and it valued at \$1.00 PSF. We own the underlying fee simple interest to the land and feel that the value for the easement interest should be limited to \$0.50 PSF. We feel that it would only be fair and correct that we should be compensated for an additional \$0.50 PSF for our land; that being an additional \$1,743.00 in land value.

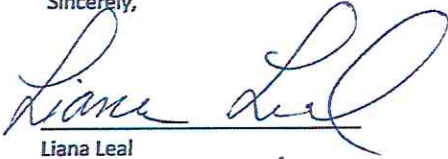
In consideration to the above information, we have determined that the following calculations better indicate the valuation of our land and damages to our land remainder after the proposed right of way acquisition:

Fee land 6,778 SF @\$2.00 PSF	\$13,556.00
Fee Land Encumbered by NAWS ROW 3,485 SF @\$1.50 PSF (rounding up)	\$5,228.00
<u>Damages to our land Remainder</u>	<u>\$4,500.00</u>
Total Value for Row Purchase	\$23,284.00

In view of the above calculations, our counter offer is for \$23,284.00. If this amount is considered and approved, we are willing to finalize the acquisition of Parcel No. 9.

Thank you for your consideration to this important matter.

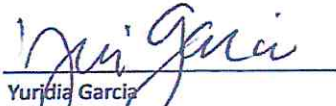
Sincerely,



Liana Leal



Zeleck Garcia



Yuridia Garcia



Omar Garcia



L&G Engineering

Transportation Consultants

July 11, 2022

Hand delivered by:
Robert "Bob" Garcia

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

ROW CSJ: 0921-02-355
Parcel: 09
From: SH107
To: Mile 14.5

Liana Leal & Zelek Garcia
Omar Garcia & Yuridia Garcia
PO Box 252
Edcouch, Texas 78538-0252

Dear Ladies & Gentlemen:

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 Right of way Manager, 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 **\$ 17,041.00** for your property, which includes **\$ 17,041.00** 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.	\$ 0.00

If you wish to accept the offer based upon this appraisal, please contact Project Manager Robert "Bob" Garcia or Fernando Herrera Right of Way Manager, 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 Project Manager Robert "Bob" Garcia or Fernando Herrera Right of Way Manager 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")

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

TABULATION OF VALUES (continued)

Parcel: 9

Highway: Mile 6 West Road

ROW CSJ: 0921-02-355

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:	2/21/2022			Recommended Value
Appraiser's Name:	John H. Malcom, Jr.			
Value of Whole Property (Economic Unit-1.00 Acre)	\$87,120.00			\$87,120.00
Parcel Area: 10,263 sf.				
VALUE FOR PARCEL				
Land: per sf. 6,778 sf. Unencumbered @ \$2.00 sf. & 3,485 sf. Encumbered @ \$1.00 sf.	\$13,556.00			\$13,556.00
Easement 3,485 sf. @1.00 sf.	\$3,485.00			\$3,485.00
Improvements	\$0.00			\$0.00
Net Damages or (Enhancements)	\$0.00			\$0.00
OAS Value(s)	\$0.00			\$0.00
TOTAL COMPENSATION	\$20,526.00			\$20,526.00

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

TABULATION OF VALUES (continued)

Parcel: 9

Highway: Mile 6 West Road

ROW CSJ: 0921-02-355

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: John H. Malcom, Jr.
Effective Date of Report: February 21, 2022
Report Dated: March 18, 2022
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: March 23, 2022

Parcel 9 is a partial taking of 0.236 acres (10,263 sf.) parcel of land situated in Hidalgo County, Texas and also being a part or portion of a 5.01 acre tract of land out of Farm Tract 515, West and Adams Tract Subdivision, according to the plat or map thereof recorded in Volume 2, Pages 34-37, of the Map Records of Hidalgo County, described in a deed dated April 27, 2012 from Eduvina C. Leal to Else Leal Garcia, Omar Garcia and wife Yurida Garcia, and Liana Leal and recorded in Document Number 2303787 in a deed dated April 5, 2013 from Elsa Leal Garcia to Liana Leal and husband Zelek Garcia and recorded in Document Number 2428518, of the Official Records of Hidalgo County, Texas.

The whole property of 5.01 acres is located along the west line of Mile 6 West Road in the Elsa Extraterritorial Jurisdiction zoning area of Hidalgo County, Texas. The whole tract is improved with a single family residence and related site improvements. The residence is not impacted by the proposed acquisition. The whole property is encumbered by a utility easement owned by North Alamo Water Supply Corporation.

For valuation purposes, the appraiser has established an economic unit of 1.00 acre based on market trends in this immediate area. The appraiser has selected four (4) residential sales to value the unencumbered portion of the economic unit at \$2.00 per sf.

The acquisition of 10,263 sf. has 6,778 sf. that is unencumbered land and 3,485 sf. that is encumbered with the easement. 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 \$1.00 per sf. Thus, the encumbered fee portion is valued at \$1.00 per sf. and the utility easement is also valued at \$1.00 per sf. There are no market damages 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 \$20,526.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

Retentions are not applicable as subject parcel is vacant land.

1 REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: W.S. Mile 6 W. Rd, Elsa, Hidalgo County, TX
Property Owner: Liana Leal & husband Zelek Garcia and Omar Garcia & wife Yuridia Garcia
Address of Property Owner: PO Box 252, Edcouch, TX 78538
Occupant's Name: Unknown
Whole: Partial: Acquisition

District: Pharr
Parcel: 9
ROW CSJ: 0921-02-355
Federal Project No: NA
Highway: Mile 6 West Road 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 \$20,526 as of February 21, 2022, based upon my independent appraisal and the exercise of my professional judgment;

That on February 21, 2022, I personally inspected in the field the property herein appraised; that I afforded Liana Leal & husband Zelek Garcia and Omar Garcia & wife Yuridia Garcia the opportunity to accompany me at the time of the inspection. A certified letter was mailed on February 11, 2022. At the time of the inspection, Omar Garcia and Yuridia Garcia were present.

That the comparables relied upon in making said appraisal were as represented by the photographs contained in the appraisal report and were inspected on or before March 15, 2022;

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 L&G Engineering 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 82nd Regular Legislative Session and finds as follows:

1. Is there a denial of direct access on this parcel? No
2. If so, is the denial of direct access material? 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 Malcom, Jr., MAI, AI-GRS, CCIM, SR/WA
Certification Number: 1320239-G
Appraisal Report Date: March 18, 2022

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

 3/24/2022
Reviewing Appraiser Date