

# L&G Engineering

Transportation Consultants

February 20, 2025

The Honorable David Fuentes  
Commissioner, Pct. 1  
C/O David Suarez  
1902 Joe Stephens Avenue  
Weslaco, Texas 78599

RE: County: Hidalgo  
RCSJ No. 0921-02-524  
Parcel No.13A  
Mile 1 East From: Business 83 To Mile 8 North

Dear Commissioner Fuentes:

Attached herewith is a counter-offer as submitted by owner Donald H Vogel and Shirley Vogel 13A on February 14, 2025. L & G Engineering has reviewed the aforementioned and hereby recommends that counteroffer **be approved**. Also attached is the N-9, Administrative Settlement Evaluation and Approval Form.

L & G Engineering believes the counteroffer is a valuation, legal and cost savings issue. 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 **\$25,500.00** 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,

Fernando "Fred" Herrera  
Right of Way Administrator

Attachments: As noted.

cc: File



## HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

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ROW CSJ: 0921-02-524

County: Hidalgo

Highway: Mile 1 ½ E

Project Limits: Mile 1 EAST

Parcel No.: 13A

Owner's Name: Don H Vogel and Shirley A Vogel

Approved Offer: \$15,222.00

Date Offer Sent: 1/31/2025

Owner's Counteroffer: \$25,500.00

Date Counteroffer Received: 2/14/2025

### 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: 12/25  
Possession of this property is needed by: 05/2025  
Projected possession date, if settled is: 5/2025  
Projected possession date, if condemned is: 12/2025  
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 13 A tract of land containing 2,628.8931 sq. ft. situated in the City of Mercedes, Hidalgo County, Texas being out of Lot 13, Block 42, Capihallo District SUBDIVISION, according to the plat or map thereof recorded in Volume "P", Pages 227, Hidalgo County Deed Records, which said 0.0604 of one acre tract is out of a certain tract conveyed to H.E. Vogel and Helen Vogel, . On January 31, 2025, Acquisition Provider (L&G) mailed an offer of \$15,222.00 to purchase the property to Donald H. Vogel and Shirley Vogel . L & G ROW Agent Rolando Gonzalez went and visited the property owner on site on February 13, 2025, to discuss the offer and answer any questions he might have. On February 14, 2025, the property owner submitted a counter offer in the amount of \$25,500.00. In the counter offer Mr. Vogel and Mrs Vogel state that the proposed right of way taking will reduce the present square footage making the road to close to the residence and therefore making it more unsafe for him and his family. 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 aproved value versus the property owner's counter offer is a difference of (\$10,278.00) 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 \$ 25,500.00  is /  is not recommended for approval as being reasonable, justified, prudent and in the public interest.

**RECOMMENDATION(S):**

*H. ...*  
Project Engineer/ROW Administrator

2/20/25  
Date

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

\_\_\_\_\_  
Date

**COUNTY APPROVAL:**

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

\_\_\_\_\_  
Date

2/14/2025

Donald H Vogel  
Shirley Vogel  
8936 Mile 1 ½ E  
Mercedes Texas 78570

To whom it may concern,

The purpose of this letter is to inform you that I Donald Vogel and wife Shirley Vogel, owners of Parcel 13A located on 8936 Mile 1 ½ E Mercedes Tx. 78570. For these 2,628,8931 square feet of property that is being taken we are asking for an additional \$10,278 due to the property being a commercial property and the traffic being considerable closer to our front yard, which will become a safety concern to me and my family. We are also considering the removal of the palm trees which gives us further protection from traffic.

I am in support of this project and thank you for the progression of improving our city, but to prepare and take safety measures within our property, we are willing to sign for the right of way property as described on the property description in exchange for the amount of \$25,500.

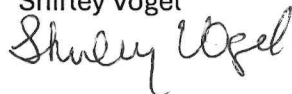
Thank you for your consideration

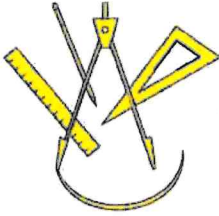
Sincerely,

Donald H Vogel



Shirley Vogel





# L&G Engineering

Transportation Consultants

January 31, 2025

Via Certified Mail, Return Receipt Requested  
No. 7022 2410 0001 7208 7593

County: Hidalgo  
Federal Project No.: N/A  
Highway: Mile 1 East

ROW CSJ: 0921-02-524  
Parcel: 13A  
From: Business 83  
To: Mile 8

Donald H. Vogel, successor Trustee of the Herbert E. Vogel Family Trust created by Last Will and Testament of Herbert E. Vogel, deceased; and Donald H. Vogel, individually and as Independent executor of the Estate of Helen K. Vogel, deceased; and Lynn Kay Vogel Davis, William Kemp Pace, Guinevere (Guin) Skow and Victoria Brown  
8936 Mile 1½ E  
Mercedes, Texas 78570-0161

Dear Donald H. Vogel et al:

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 1 East, 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 **\$15,222.00** for your property, which includes **\$15,222.00** 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. Pavement – Concrete	\$1.00
B. Landscaping – Palm Trees	\$1.00

If you wish to accept the offer based upon this appraisal, please contact Project Manager Robert Casarez 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.

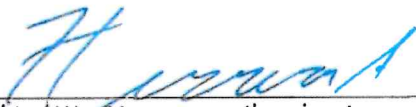
You have the right to discuss with others any offer or agreement regarding the County's acquisition of the subject property, or you may (but are not required to) keep the offer or agreement confidential from others, subject to the provisions of Chapter 552, Government Code (the Public Records Act) as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



REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: 8936 Mile 1 E, Mercedes, Texas 78570  
Property Owner: Don H Vogel and Shirley A Vogel  
Address of Property Owner: 8936 Mile 1 E, Mercedes, Texas 78570  
Occupant's Name: Don H Vogel and Shirley A Vogel  
Whole:  Partial:  Acquisition

District: Pharr  
Parcel: 13A  
ROW CSJ: 0921-02-524  
Federal Project No: N/A  
Highway: Mile 1 East

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 \$15,222 as of November 13, 2024, based upon my independent appraisal and the exercise of my professional judgment;

That on August 19, 2024 and November 13, 2024, I personally inspected in the field the property herein appraised; that I afforded Don H Vogel and Shirley A Vogel, the property owner or the representative of the property owner, the opportunity to accompany me at the time of the inspection;

That the comparables relied upon in making said appraisal were as represented by the photographs contained in the appraisal report and were inspected on July 11, 2024;

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 and Texas Department of Transportation, and/or their representatives, 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 of the 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 \$ 0.00

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 analysis, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analysis, 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 analysis, 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 non-compensable 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

Leonel Garza III

Certification Number

TX-1328375 G

Date: December 4, 2024

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

*Harvey L Heerssen* 12/13/2024  
 Reviewing Appraiser Date







**TABULATION OF VALUES (continued)**

Parcel 13A

Highway: Mile 1 Road East

ROW CSJ: 0921-02-524

**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:	11/13/2024 Effective Date			Recommended Value
Appraiser's Name:	Leonel Garza III.			
Value of Whole Property	\$195,462.00			\$195,462.00
Parcel Area: 2,628.8931SF				
<b>VALUE FOR PARCEL</b>				
Land: per. SF.\$3.00	\$7,887.00			\$7,887.00
Easement	\$0.00			\$0.00
Improvements	\$7,335.00			\$7,335.00
Net Damages or (Enhancements)	\$0.00			\$0.00
OAS Value(s)	\$0.00			\$0.00
<b>TOTAL COMPENSATION</b>	\$15,222.00			\$15,222.00

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

**TABULATION OF VALUES (continued)**

Parcel: 13A

Highway: Mile 1 Road East

ROW CSJ: 0921-02-524

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

**Appraiser: Leonel Garza III**  
**Effective Date of Report: November 13, 2024**  
**Report Dated: December 4, 2024**  
**Review Appraiser: Harvey L. Heerssen**  
**Effective Date of Review: December 6, 2024**

**Parcel 13A is not an update but is an original appraisal.**

Parcel 13A is a partial taking of 0.0604 acres (2,628.8931 sf.) parcel of land situated in the City of Mercedes, Hidalgo County, Texas and being out of Lot 13, Block 42, Capisallo District Subdivision according to the plat thereof recorded in Volume "P", Page 227, Hidalgo County Deed Records, which said 0.0604 of one acre tract is out of a certain tract conveyed to H.E. Vogel and Helen Vogel, by virtue of a Warranty Deed recorded Volume 489, Page 290, Hidalgo County Deed Records, Hidalgo County, Texas.

The whole property is an improved tract of land located on the south side of Mile 1 East Road, Mercedes, Texas. The tract is improved with a single-family residence that is not impacted by the proposed acquisition. There are minor site improvements within the proposed acquisition that are valued accordingly.

Three (3) comparable land sales support the while property value of \$3.00 per sf. The part taken is properly valued as a pro-rata part of the whole unit value. There are no market damage 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 total value of \$15,222 be approved for negotiations and acquisition.**

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

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

