

L&G Engineering

Transportation Consultants

March 18, 2019

The Honorable Joe Flores
Commissioner, Pct. 3
c/o Norma Ceballos
724 N Breyfogle
PO Box 607
Mission, Texas 78574

RE: County: Hidalgo
TxDOT CSJ No. 0921-02-344
Mile 3 Road
Parcel No. 19

Dear Mr. Flores:

Attached herewith is a counter-offer as submitted by Alberto Almaguer Martinez & Maria Elizabeth Almaguer, owner of Parcel 19 on March 15, 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 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 **\$16,000.00** 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,

Fernando Herrera Jr.
Right of Way Administrator

Attachments: As noted.
cc: File



HIDALGO COUNTY ADMINISTRATIVE EVALUATION AND APPROVAL FORM

ROW CSJ:0921-02-344

County: Hidalgo

Highway: Mile 3 Road

Project Limits: Tom Gill to Goodwin Road

Parcel No.:19

Owner's Name: Alberto M. Almaguer & Elizabeth Almaguer

Approved Offer: \$5,216.00

Date Offer Sent: 11/21/2018

Owner's Counteroffer: \$16,000.00

Date Counteroffer Received: 3/15/19

Factors considered in evaluation:

1. Valuation Issues

- a. Reconciliation of all available appraisals, including Owner's.
b. Other: Property owner feels land was not valued properly.

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: 6/2020
Possession of this property is needed by: 5/2019
Projected possession date, if settled is: 04/2019
Projected possession date, if condemned is: 08/2019
Letting date: 6/2020
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 _____

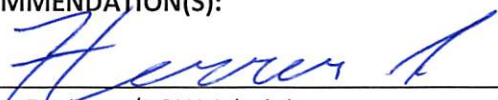
Analysis and Conclusion:

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

Parcel 19 is a 550 square foot or 0.0126 of an acre of land situated in Hidalgo County, Texas and being out of Lot 3, Coyote Hill Subdivision, an addition to the City of La Joya, Hidalgo County, Texas. An initial offer was made on November 21, 2018 for the amount of \$5,216.00 to Mr. Martinez. He has submitted a counteroffer of \$16,000.00. In his counter offer he states that he feels that value for his land is worth more. He feels that being that Tom Gill is such a congested highway that its going to be more of a hazard to his family and his home since its going to be closer to his home. He want's the county to understand that building a fence is going to be a must for his property to avoid any accidents in the future driving into his property. The valuation for his mesquite tree as well is very minimal. He's asking the county to consider his counter offer in the amount of \$16,000.00 to avoid any condemnation hearings. Therefore, our recommendation is to accept the counteroffer based on recent awards of special commissioners as well as the cost of legal fees for eminent domain cases.

This administrative settlement of \$ 16,000.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator

3/18/19

Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

TABULATION OF VALUES

Parcel: 19 Highway: Mile 3 Road ROW CSJ: 0921-02-344
 Taking Type: Partial District: Pharr
 Size of Remainder: 0.5430 Acres County: Hidalgo
 Type of Property: Improved/Residential Federal Project: N/A
 Contract Fencing: N/A
 Appraised by: Leonel Garza III
 Date Appraised: 6-1-18

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
Federal Highway Administration	80%	ROW Acquisition Expenses
Hidalgo County	20%	ROW Acquisition Expenses

Interest Owner	Acquisition Interest	Land Area	Value	Lease (Y/N)
Alberto M. Almaguer & Elizabeth Almaguer	Fee Simple	0.0126 Acres 550 sf.	\$1,430.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$1,430.00	\$3,786.00	\$0.00	\$0.00	\$5,216.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	Fencing	Chain Link	\$29.00	\$1.00	N/A
B.	Posts (2)	Metal	25.00	1.00	N/A
C.	Drives	Caliche	82.00	1.00	N/A
D.	Landscaping	Mesquite Tree & Plants	3,650.00	1.00	N/A

TABULATION OF VALUES (continued)

Parcel: 19

Highway: Mile 3 Road

ROW CSJ: 0921-02-344

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:	6-1-18			Recommended Value
Appraiser's Name:	Leonel Garza III			
Value of Whole Property	\$92,531.00			\$92,531.00
Parcel Area: 550 sf.				
VALUE FOR PARCEL				
Land: per sf. \$2.60	\$1,430.00			\$1,430.00
Easement	\$0.00			\$0.00
Improvements	\$3,786.00			\$3,786.00
Net Damages or (Enhancements)	\$0.00			\$0.00
OAS Value(s)	\$0.00			\$0.00
TOTAL COMPENSATION	\$5,216.00			\$5,216.00

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

TABULATION OF VALUES (continued)

Parcel: 19

Highway: Mile 3 Road

ROW CSJ: 0921-02-344

VI. Comments and Conclusions on Values in the Appraisal Report

Appraiser: Leonel Garza III
Effective Date of Report: June 1, 2018
Report Dated: September 6, 2018
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: October 23, 2018

Parcel 19 is a partial taking of 0.0126 acres (550 sq. ft.) parcel of land out of Lot 3 of Coyote Hill Subdivision, an addition to the City of La Joya, Hidalgo County, Texas as recorded in Volume 26, Page 179, of the Map Records, Hidalgo County, Texas, said Coyote Hill Subdivision being a subdivision of Lots 2 and 3, Block 8, Homeville Association Subdivision "D" as recorded in Volume 6, Page 36, of the Map Records, Hidalgo County, Texas, said tract of land conveyed by Warranty Deed with Vendor's Lien, dated December 12, 1997, from Daniel Ozuna and wife, Ramona Z. Ozuna to Alberto Almaguer Martinez and wife Elizabeth Almaguer, as described in Document No. 646118, of the Official Records, Hidalgo County, Texas.

The whole property is located along the eastern side of Tom Gill Road, approximately 0.05 miles south of Mile 3 Road, road in the City of Penitas, Texas. The subject whole property is improved with a manufactured home with related site improvements with fencing, landscaping and caliche drives within the proposed acquisition. The manufactured home is not impacted by the proposed acquisition. The highest and best use is for single family residential development.

The appraiser Leonel Garza III has selected three (3) recent sales similar to the subject in highest and best use and location to value the whole property at \$2.60 per sf. The part taken is properly valued as a pro-rata part of the whole. There are no market damages to the remainder land.

The appraiser afforded the property owner an opportunity to accompany him at the time of inspection by letter of May 18, 2018. The appraiser inspected the property off site from the road right of way on June 1, 2018 since no contact was made with the owner.

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 value of \$5,216.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

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

TABULATION OF VALUES (continued)

Parcel: 19

Highway: Mile 3 Road

ROW CSJ: 0921-02-344

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. Johnson
Contract Reviewing Appraiser (if applicable)

11-9-18

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

Ramon Garcia
County/City Representative

11/19/18
Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS' COURT
ON: 7/3/18 *ms*

REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: 3314 Tom Gill Road, Peñitas, Texas District: Pharr
 Property Owner: Alberto M Almaguer & Elizabeth Almaguer Parcel: 19
 Address of Property Owner: PO Box 394, Peñitas, Texas ROW CSJ: 0921-02-344
 Occupant's Name: Alberto M Almaguer & Elizabeth Almaguer Federal Project No: N/A
 Whole: Partial: Acquisition Highway: 3 Mile 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 \$5,216 as of June 1, 2018, based upon my independent appraisal and the exercise of my professional judgment;

That on June 1, 2018 (date)(s), I personally inspected in the field the property herein appraised; that I afforded Alberto M Almaguer & Elizabeth Almaguer, 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 June 8, 2018 (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, 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 82nd Regular Legislative Session and finds as follows:

1. Is there a denial of direct access of the parcel? No (yes or no)
2. If so, is the denial of direct access material? N/A (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 \$ 0.00.

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: September 6, 2018

To the best of my knowledge, the value does not include any items which are not compensable under State law.	
<i>Harvey L. Heerssen</i>	11/09/2018
Reviewing Appraiser	Date



Copy!

Pharr District
Hidalgo County
Mile 3 North Road: FM Tom Gill Road to Goodwin Road
RCSJ: 0921-02-344
Parcel No. 19

RE: Being a 550 square foot or 0.0126 of an acre of land situated in Hidalgo County, Texas and being out of Lot 3, Coyote Hill Subdivision, an addition to the City of La Joya, Hidalgo County, Texas, as recorded in Volume 26, Page 179, Map Records, Hidalgo County, Texas,

Alberto Almaguer Martinez & Elizabeth Almaguer

Dear Mr. Salinas,

In reviewing the initial offer package my wife and I have concluded that we cannot accept the offer of \$5,216.00 for the reasons being that we feel that our property is worth more. I am asking for consideration in my mesquite tree, value of the land and compensation to build a better fence that will withhold any impact from any collisions to my mobile home or any of my family. Problem is that since we are fronting Tom Gill road this is a very congested high traffic road. Worse than 3 Mile line road. I'm asking for a counteroffer of 16,000.00 and declining my initial offer of \$5,216.00. I truly hope that the county considers my counteroffer and my concerns in this matter to avoid condemnation.

Thank You,

Alberto Almaguer
Alberto M. Almaguer

3/15/19
Date

Elizabeth Almaguer
Elizabeth Almaguer

3/15/19
Date