

July 5, 2023

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. 4
MILE 6W: From :SH 107 To: Mile 14.5

Dear Commissioner Fuentes:

Attached herewith is a counter-offer as submitted by North Alamo Water Supply Corporation owner of Parcel 4 easement on June 27, 2023. 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 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 **\$25,514.00** 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

ROW CSJ: 0921-02-355

County: Hidalgo

Highway: Mile 6W

Project Limits: From SH 107 to Mile 14.5

Parcel No.: 4

Owner's Name: North Alamo Water Supply Corporation

Approved Offer: \$2,314.00

Date Offer Sent: 11/02/2022

Owner's Counteroffer: \$25,514.00

Date Counteroffer Received: 6/27/2023

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: 12/2023
Possession of this property is needed by: 8/2023
Projected possession date, if settled is: 8/2023
Projected possession date, if condemned is: 12/2023
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 _____

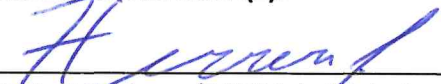
Analysis and Conclusion:

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

Parcel 4 is a partial acquisition containing 7,963 sq. ft., parcel of land situated in Hidalgo County, Texas and also being a part or portion of a 0.72 of an acre tract of land out of Farm Tract 515 West and Adams Tract Subdivision. On November 2, 2022, Acquisition Provider (L&G) mailed an offer of \$2,314.00 to purchase the easement to North Alamo Water Supply Corporation (NAWSC). On June 23, 2023, the easement owner submitted a counter offer in the amount of \$25,514.00. In their counter offer they stated they will be suffering damages from the taking of their easement. NAWSC had on-going plans to install waterlines within a 15 ft perpetual easement adjacent to the road right of way. Consequently, they will need to engage consultants to provide the professional services needed to acquire a new easement and the cost associated for those services. 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. 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 \$ 25,514.00 is / is not recommended for approval as being reasonable, justified, prudent and in the public interest.

RECOMMENDATION(S):



Project Engineer/ROW Administrator

7/5/2023

Date

RPIC/Authorized Pct. Representative

Date

COUNTY APPROVAL:

County Judge

Date

NORTH ALAMO WATER SUPPLY CORPORATION

3/8 MILE S OF SH 107 ON DOOLITTLE ROAD
420 S DOOLITTLE RD EDINBURG TX 78542-9707

TELEPHONE 956-383-1618

FAX 956-383-1372

June 27, 2023

Fernando Herrera, Jr.
L&G Engineering Acquisition Services
Right of Way Administrator
900 S. Stewart Rd., Ste. 10
Mission, Texas 78572

Re: Offer Letter Dated November 2, 2022
Mile 6 West Road Improvement Project (CSJ: 0921-02-355)
Parcel No. 4

Dear Mr. Herrera:

In a letter dated November 2, 2022, the County of Hidalgo offered North Alamo Water Supply Corporation (Corporation) \$2,314.00 for the purchase of easement rights within Parcel No. 4 located along Mile 6 West Road. We have reviewed the initial offer letter along with the appraisal report and have decided to reject the County's offer.

The basis for rejecting the offer is in leu of the cost associated with having to capture a new easement from the current landowner. As you are aware, the Corporation's policy is to install waterlines within a 15-foot perpetual easement adjacent to the road right of way. For this task North Alamo will be engaging consultants to provide professional services associated with easement acquisition and the cost associated for these services are as follows:

Acquisition Services.....	\$16,200.00
Legal Services.....	\$ 3,000.00
Engineering Services.....	\$ 2,500.00
NAWSC Administration.....	\$ 1,500.00
<u>Easement Right.....</u>	<u>\$ 2,314.00</u>
Total Calculated Value.....	\$25,514.00

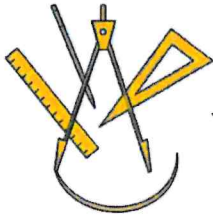
In consideration of the above calculations, the Corporation's counteroffer is \$25,514.00. If this amount is acceptable, North Alamo Water Supply Corporation will execute the necessary conveyance documents to consummate this acquisition transaction. Thank you for your consideration on this important matter. Should you need additional information or if the counteroffer is approved, please contact me at your earliest convenience.

Respectfully,



Steve Sanchez, General Manager
North Alamo Water Supply Corporation

Cc: Janie Sandoval, North Alamo Water Supply Corporation
Michael Hernandez, Melden & Hunt, Inc.
Richard Fryer, Fryer Hansson & Associates



L&G Engineering

Transportation Consultants

November 2, 2022

County: Hidalgo
CSJ: 0921-02-355
Highway: Mile 6 West
From: SH107
To: Mile 14.5
Parcel: 4 Easement Rights

North Alamo Water Supply Corporation
Attn: Juan Elizondo
420 South Doolittle Road
Edinburg, Texas 78542

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED NO. 7020 0090 0001 6884 2012

Dear Sirs:

The County of Hidalgo (the "County") by and through its acquisition consultant, L & G Engineering Acquisition Services (the "Contractor"), is presently proceeding with the acquisition of right of way for the construction of Mile 6 W. (SH107 to Mile 14.5).

In acquiring property for the highway systems of Texas, the Texas Department of Transportation (the "Department") and the County follow a definite procedure for appraising the land needed and for handling personal negotiations with each Interest Owner. As has been or will be explained by the L&G's negotiator, Fernando Herrera, Jr., your easement rights located within Parcel No. 4 of this project are to be acquired.

We believe at this stage of the purchase process it is mutually beneficial to confirm that based on an appraisal(s) made by an independent appraiser(s) and an analysis by an independent review appraiser, the County is authorized to offer you **\$ 2,314.00** for a portion of your easement. This amount is the total amount of just compensation for the easement rights, as determined through the appraisal process.

If you wish to accept the offer based upon this appraisal, please contact L&G Engineering 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 Contractor within the 30 day time deadline.*

In the event the condition of the property changes for any reason, the State/County shall have the right to withdraw or modify this offer.

It will be necessary that both the easement and fee title to subject tract be acquired through normal acquisition negotiations in order to consummate this transaction and obtain payment from the County.

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 the Texas Department of Transportation. Expenses eligible for reimbursement may include (1) recording fees, transfer taxes and similar expenses incidental to conveying the real property to the Department 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 Department's determination on any claim for reimbursement.

You may be entitled to additional payments and services under the State'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 to the Department.

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 Department/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 Department'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 Department/County, including the appraisal on which this offer is based.

Sincerely,



Fernando Herrera Jr.
Right of Way Administrator or other signatory

ENCLOSURES:

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

RELEASE OF EASEMENT

THE STATE OF TEXAS § ROW CSJ: 0921-02-448
 §
COUNTY OF HIDALGO § KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, by that certain instrument dated the 24th the day of June, 1974, recorded in Vol. 1411, Pages 365-366, Deed Records of Hidalgo County, Texas, the undersigned are the owner(s) of an easement in, along, over, upon and across certain property more particularly described therein; and,

WHEREAS, the County of Hidalgo, acting by and through the Texas Transportation Commission, has acquired or is in the process of acquiring the property described in Exhibit "A", which is attached hereto and incorporated herein for any and all purposes, and desires to have said easement remised, released and forever relinquished insofar as it affects or appertains to the property described in said Exhibit "A";

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, North Alamo Water Supply Corporation of the County of Hidalgo, State of Texas, for and in consideration of the sum of \$25,514 dollars & 00/100 (\$25,514.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, have forever remised, released and relinquished and by these presents do Forever Remise, Release and Relinquish all that certain easement interest created and established in the above-mentioned instrument insofar as it affects or appertains to the premises described in said Exhibit "A".

IN WITNESS WHEREOF, this instrument is executed on this the 29th day of June, 2023.

"North Alamo Water Supply Corporation"

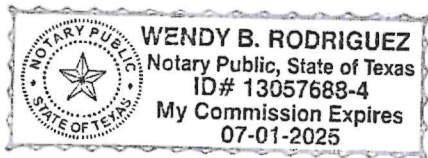
By: [Signature]
Title: General Manager

Corporate Acknowledgment

State of Texas
County of Hidalgo

This instrument was acknowledged before me on June 29, 2023 by
Steven Sanchez, General Manager
of North Alamo Water supply Company, a Corporation
_____, on behalf of said corporation.

[Signature]
Notary Public's Signature



TABULATION OF VALUES

Parcel: 4 Highway: Mile 6 West Road ROW CSJ: 0921-02-355
 Taking Type: Partial District: PHR
 Size of Remainder: 0.537 Acres County: Hidalgo
 Type of Property: Res-SFR
 Contract Fencing: N/A
 Appraised by: John H. Malcom, Jr.
 Effective Date of Appraisal Report" 2/22/2022
 Date Appraised Report Signed: 3/30/2022
 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)
Noelia Rios Guzman	Fee Simple	6,370 Net SF.	\$11,699.00	No
North Alamo Water Supply Corporation	Easement	2,104 Net Sf.	2,314.00	No

I. Appraised Values

Land Value	Improvement Value	Sign Value	Damages/Enhancements	Total Value
\$14,013.00	\$81,320.00	\$0.00	\$20,727 00	\$116,060.00

II. Improvements

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
A.	SF Residence w/ Porch & Garage	Wood-1,589 SF.	\$57,091.00	\$1.00	Cat I
B.	Utility Pole	Wood-30 LF.	1,500.00	1.00	N/A
C.	Fence w/ Gates	Stucco-143 LF.	8,008.00	1.00	N/A
D.	Fence	Chain Link -159 LF.	650.00	1.00	N/A
E.	Fence	Corrugated Metal-159 LF.	44.00	1.00	N/A

Item No.	Improvement Type	Type Construction	Improvement Value	Retention Value	Bisection Category
F.	Drive/Patio	Concrete-648 SF.	\$4,536.00	1.00	N/A
G.	Landscaping	Trees-3 /Grass Lawn- 5,334 SF.	9,501.00	1.00	N/A
		Total	\$81,320.00	\$7.00	

TABULATION OF VALUES (continued)

Parcel: 4

Highway: Mile 6 West Road

ROW CSJ: 0921-02-355

III. Damages and Enhancements

Total Non-Exempt Damages	Enhancements	Exempt Damages	Net Damages
\$12,727.00	\$.00	\$8,000.00	\$20,727.00

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:	2/22/2022			Recommended Value
Appraiser's Name:	John H. Malcom, Jr.			Review Appraiser 5/20/2022
Value of Whole Property (Economic Unit-0.52 Net Acres)	\$143,000.00			\$143,000.00
Parcel Area: 6,370 Net sf.				
VALUE FOR PARCEL				
Land: per sf. 4,266 sf. Unencumbered @ \$2.20 sf. & 2,104 sf. Encumbered @ \$1.10 sf.	\$9,385.00			\$9,385.00
	\$2,314.00			\$2,314.00
Easement 2,104 sf. @1.10 sf.	\$2,314.00			\$2,314.00
Improvements	\$37,809.00			\$81,320.00
Net Damages or (Enhancements)	\$64,238.00			\$20,727.00
OAS Value(s)	\$0.00			\$0.00
TOTAL COMPENSATION	\$116,060.00			\$116,060.00

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

TABULATION OF VALUES (continued)

Parcel: 4

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 22, 2022
Report Dated: March 30, 2022
Review Appraiser: Harvey L. Heerssen
Effective Date of Review: May 17, 2022

Parcel 4 is a partial taking of 0.183 gross acres (7,963 gross sf.) parcel of land situated in Hidalgo County, Texas and also being a part or portion n of a 0.72 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 January 2, 2018 from Diana Noelia Guzman to Noelia Rios Guzman and recorded in Document Number 2877012, of the Official Records of Hidalgo County, Texas.

The whole property of 0.72 gross 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 bisected Category I single family residence, and many related site improvements. The whole property is encumbered by a utility easement owned by North Alamo Water Supply Corporation.

The single family residence is bisected by the proposed right of way line and is classified as a Category I type improvement. In accordance with Section 3.13 (Bisected Improvements) of the Appraisal and Review Manual, I have removed the damages and have added the damage amount to the part taken value since the building will be acquired or retained in its entirety.

For valuation purposes, the appraiser has established an economic unit of 0.52 net acres 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 \$2.20 per sf.

The net acquisition of 6,370 sf. has 4,266 sf. that is unencumbered land and 2,104 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 \$1.10 per sf. Thus, the encumbered fee portion is valued at \$1.10 per sf. and the utility easement is also valued at \$1.10 per sf. There are no market damages the remainder land. The remaining site improvements are totally damaged out due to proximity of the proposed right of way line. Cost to cure is necessary to compensate for the demolition of the remaining site improvements.

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 \$116,060.00 be approved for negotiations and acquisition.

VII. Justification and Explanation for Credit if Retained.

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

TABULATION OF VALUES (continued)

Parcel: 4

Highway: Mile 6 West Road

ROW CSJ: 0921-02-355

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

William L. Johnson

Contract Reviewing Appraiser (if applicable)

5/20/2022

Date

Division Reviewing Appraiser (if applicable)

Date

X. Approval of Values

Richard J. Burck

County/City Representative

6/7/22

Date

ROW Staff Representative

Date

APPROVED BY
COMMISSIONERS COURT
ON: 5/3/22 js



1 REAL ESTATE APPRAISAL REPORT - TEXAS DEPARTMENT OF TRANSPORTATION

Address of Property: 200 S. Mile 6 W. Rd, Elsa ETJ, Hidalgo County, TX
Property Owner: Noelia Rios Guzman
Address of Property Owner: 200 S. Mile 6 W. Rd, Weslaco, TX 78599
Occupant's Name: Owner
Whole: [] Partial: [x] Acquisition

District: Pharr
Parcel: 4
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 \$116,060 as of February 22, 2022, based upon my independent appraisal and the exercise of my professional judgment;

That on February 22, 2022, I personally inspected in the field the property herein appraised; that I afforded Noelia Rios Guzman 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, the owner was 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 21, 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 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.

[Handwritten Signature]

Appraiser Signature
John Malcom, Jr., MAI, AI-GRS, CCIM, SR/WA
Certification Number: 1320239-G
Appraisal Report Date: March 30, 2022

To the best of my knowledge, the value does not include any items which are not compensable under State law.
Harvey L. Heerssen 5/20/2022
Reviewing Appraiser Date