

Amendment 3
To
Agreement Between Webb County and Brighton Group, LLC
For
Right of Way Acquisition Services

THIS AMENDMENT 3, dated March 25, 2024, is entered into and effective March 25, 2024, by and between **WEBB COUNTY**, a political subdivision of the State of Texas (hereinafter called "County") and **BRIGHTON GROUP, LLC**, (hereinafter called "Project Manager") and collectively referred to as "the Parties".

The original Agreement, dated August 8, 2022 by and between **WEBB COUNTY**, a political subdivision of the State of Texas (hereinafter called "County") and **BRIGHTON GROUP, LLC**, (hereinafter called "Project Manager") to provide ARPA Project Management Services is hereby amended in the following respects:

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, the parties agree as follows:

Right of Way Acquisition Services of US Highway 83 and Mangana Hein Road for ARPA Waterline Extension Projects 4, 5, 6, 10, 13 and 14. Additional Easement Acquisition Services within La Presa.

- Full Scope of Services are delineated in Exhibit "A". (See Attached)
- Brighton Groups Acquisition Services Fee Schedule in Exhibit "B" (See Attached)

The parties agree that the foregoing amendment shall be hereinafter considered a part of the Agreement referred to above and incorporated by reference therein for all purposes. The amendments shall be subject to any and all other provisions of the Agreement which are hereby ratified by the parties and remain in full force and effect, with the exception of the parts or provisions of the contract which have been modified by this amendment or prior amendments.


This Agreement becomes effective as set forth above irrespective of the date/dates signed.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment 3 on the dates set forth below.

WEBB COUNTY



Tano E. Tijerina
Webb County Judge



Joseph Palacios, President/CEO
Brighton Group


Date: 03/25/2024

Date: March 25, 2024

FILED 05/06/2024 10:30 AM
MARGIE RAMIREZ IBARRA
COUNTY CLERK, WEBB COUNTY, TEXAS
BY francesca DEPUTY

ATTEST:

Maria Ray Ibarra
Margie Ramirez Ibarra
Webb County Clerk

The seal of Webb County, Texas, is circular with a five-pointed star in the center. The words "COMMISSIONERS" are written along the top inner edge of the seal, and "WEBB COUNTY, TEXAS" is written along the bottom inner edge. The seal is partially obscured by the signature and printed name of the clerk.

ROW ACQUISITION PROVIDER SERVICES

The **ACQUISITION AGENT** will perform the following tasks associated with ROW Acquisition Services:

1. Project Administration

- a. Negotiation of Scope of Services for the Work Authorization
 - i. The Acquisition Provider will visit the project site and coordinate with Project Engineer, Webb County Engineering Department, Webb County Executive office and Webb County Legal personnel if necessary.
- b. Communication
 - i. ACQUISITION AGENT will provide weekly progress reports and make them available to Project Engineer, Webb County Engineering Department, Webb County Executive office and Webb County Legal.
 - ii. ACQUISITION AGENT will participate in project review meetings as determined by the Project Engineer and designated Webb County personal.
 - iii. ACQUISITION AGENT will prepare initial property owner contact list for use by the Project Engineer, Webb County Engineering Department, Webb County Executive office and Webb County Legal in distribution of Acquisition Provider introduction letters.
- c. File Management
 - i. Working files will be kept in the Acquisition Provider's project administrative office, but documents generated or received by the Acquisition Provider will be forwarded to Webb County office as they are generated or received by the Acquisition Provider, if necessary.
 - ii. The ACQUISITION AGENT will prepare payment transmittal request utilizing standard payment submissions forms with supporting documentation.
 - iii. The ACQUISITION AGENT will maintain records of all payments including check number, amount, date paid, etc.
 - iv. The ACQUISITION AGENT will provide copies of all incoming and outgoing correspondence as generated if requested by Webb County.
 - v. The ACQUISITION AGENT will maintain copies of all correspondence and contact with property owners.

2. Right of Way Acquisition Services

- a. Title Services
 - i. Secure preliminary title commitments from the Title Company that will be providing title insurance. Cost of preliminary title commitments will be paid by the Acquisition Provider (if requested by the title company) and will be included in the Acquisition Provider's scope of work for payment and paid as a separate item.
 - ii. Secure title commitment updates in accordance with insurance rules and requirements for parcel payment submissions. Cost of title commitment updates will be paid by the Acquisition Provider (if requested by the title company) and will be included in the Acquisition Provider's scope of work and paid as a separate item.
 - iii. Secure title insurance for all parcels acquired, insuring acceptable title

to Webb County. Written approval by the Webb County is required for any exception.

- iv. Analyze preliminary title report to determine potential title problems, propose method to cure deficiencies.

b. Appraisal Services

- i. Appraiser may be selected from TxDOT's list of state approved fee appraisers. This list will be available for review at all District offices or at the Right of Way Division Office at 118 E. Riverside Drive, Austin, Texas, upon request.
- ii. Secure written permission (if necessary) from the owner to enter the property from which land is to be acquired. If the Acquisition Provider and/or the fee appraiser, after diligent effort, is unable to secure the necessary letter of permission from the property owner, a waiver must be obtained, in writing from the Webb County. Maintain permission letters with appraisal reports.
- iii. Prepare (if necessary) pre-appraisal contact with interest owner(s) for each parcel using acceptable WEBB COUNTY/TxDOT forms.
- iv. Contact property owners or their designated representative to offer opportunity to accompany the appraiser on the appraiser's inspection of subject property. Maintain record of contact in file.
- v. Prepare complete appraisal report for each parcel to be acquired utilizing TxDOT Forms No. ROW-A-5 and ROW-A-6 as applicable. These reports shall conform to TxDOT/WEBB COUNTY policies and procedures along with the Uniform Standards of Professional Appraisal Practices.
- vi. As necessary, prepare written notification to WEBB COUNTY/TxDOT of any environmental concerns associated with the right of way to be acquired which could require environmental remediation.
- vii. All completed appraisals will be administratively reviewed by the ACQUISITION PROVIDER/WEBB COUNTY. Confirmation of WEBB COUNTY's approved value prior to making offer for each parcel.

c. Appraisal Review

- i. Review Appraisers may be selected from TxDOT's list of state approved fee appraisers. This list is available for viewing at all District offices or the Right of Way Division office at 118 E. Riverside Drive, Austin, Texas upon request.
- ii. Review all appraisal reports for each parcel to determine consistency of values, supporting documentation related to the conclusion reached and compliance with TxDOT/WEBB COUNTY policies and procedures and the Uniform Standards of Professional Appraisal Practices.
- iii. Prepare and submit to TxDOT the Form ROW-RTA-10 "Tabulation of Values" for each appraisal.
- iv. The cost of the review appraiser appearing as an expert witness for testimony at special commissioners hearing must be included in the proposed fee schedule for the review appraiser. The cost of the appraiser's expert witness testimony for trial is not part of this contract, and shall be

paid by WEBB COUNTY.

d. Appraisal Updates

- i. Prepare complete appraisal update for the parcel to be acquired utilizing TxDOT Form No. ROW-A-5, which will be furnished to the provider by TxDOT. These reports shall conform to WEBB COUNTY/TxDOT policies and procedures along with the Uniform Standards of Professional Appraisal Practices.
- ii. As necessary, prepare written notification to WEBB COUNTY/TxDOT of any environmental concerns associated with the right of way to be acquired which could require environmental remediation. All completed appraisals will be administratively reviewed by Acquisition Agent and Webb County and recommended for approval by TXDOT.
- iii. As necessary, the appraiser will appear or testify as an Expert Witness in eminent domain proceedings and be available for pre-hearing or pre-trial meetings as directed by WEBB COUNTY/TXDOT.
- iv. The cost of the appraiser appearing as an expert witness for testimony at special commissioners hearing must be included in the proposed fee schedule for the appraiser. The cost of the appraiser's expert witness testimony for trial is not part of this contract, and shall be paid by WEBB COUNTY.
- v. As necessary, the appraiser will coordinate with the review appraiser regarding corrections and/or additional information that may be required.

e. Negotiations, Tasks and Fees

- i. Analyze appraisal and appraisal review reports and confirm Webb County's approved value prior to making offer for each parcel.
- ii. Acquisition Agent will acquire by Donation or any negotiations that will reduce any costs to the County.
- iii. Analyze preliminary title report to determine potential title problems, propose methods to cure title deficiencies.
- iv. Prepare the initial offer letter, instruments of conveyance, and any other documents required or requested by WEBB COUNTY /TxDOT on applicable WEBB COUNTY /TxDOT forms.
- v. Mail (Certified Mail Return Receipt Requested) initial offer letter, draft deed, Bill of Rights Brochures and Appraisal Reports to address confirmed with the Appraisal District of Webb County. Maintain follow-up contacts and secure the necessary instruments upon acceptance of the offer for the closing.
- vi. Provide a copy of the appraisal report for the subject property exclusively to the property owner or authorized representative at mailing of initial offer. Maintain original signed Receipt of Appraisal. (unless property owner refuses to sign it).
- vii. Respond to property owner inquiries verbally and in writing within two business days.
- viii. Prepare a separate negotiator contact report for each parcel per contact. Maintain parcel files of original documentation related to the purchase of the real property or property interests.

- ix. Advise property owner on the Administrative Settlement process. Transmit to Webb County any written counter offer from property owners including supporting documentation, and provider recommendation with regard to Administrative Settlements in accordance with WEBB COUNTY /TxDOT policy and procedures.
 - x. Prepare final offer letters and documents of conveyance as necessary.
 - xi. Appear and provide expert witness testimony as an Acquisition Provider when requested.
 - xii. Meet with Project Engineer, Webb County's Engineering Department and/or Executive Office bi-weekly as agreed upon with the ROW Acquisition Manager/Administrator.
 - xiii. The ENGINEER shall, as part of this proposal, estimate 10% of the proposed parcels may end up in condemnation. The Brighton Groups ROW staff shall be available for any meeting/hearings as requested by the Webb County legal.
- f. Closing Services Fees
- i. Coordinate with the WEBB COUNTY and Title Company to obtain an updated title commitment along with other Forms and certified copy of the instrument of conveyance necessary when requesting the Parcel Payment from WEBB COUNTY.
 - ii. Brighton Groups Acquisition ROW staff shall attend closings and provide closing services in conjunction with the Title Company.
 - iii. Brighton Groups Acquisition ROW staff shall record all original instruments immediately after closing at the respective County Clerk's Office.
- g. Relocation Assistance Services (**If Applicable but not projected for this project**, a separate Work Authorization will be issued once the number of relocations have been quantified, unless noted otherwise)
- i. The ENGINEER's ROW staff will provide relocation advisory services based on the amount of relocations or displacements identified. The Acquisition Agents ROW staff will compute replacement housing supplements (owner occupant and/or tenants).
 - ii. The Acquisition Agents ROW staff will provide advisory services to business displacements and relocate them effectively.
 - iii. TxDOT will review, approve and pay for all relocation costs for On-System projects only.

3. Condemnation Support

- a. Pre-Hearing Support
- i. Upon receipt of a copy of the final offer, request an updated title commitment for Eminent Domain from the Title Company.
 - ii. Prepare a Bisection Clause for the original set of Legal Descriptions supplied by Surveyor if applicable.
 - iii. Use the information from the Title Commitment to join all interested parties on the necessary forms. Spouses of owners must also be joined.

- iv. Upon completion of the necessary forms, prepare a packet containing 2 copies each of the following documents: Title Commitment, Negotiator's Reports, Appraisal Acknowledgment, Pre-appraisal Contact Sheet, signed and sealed property description, and plat, Final Offer Letter, any correspondence from the land owner or representatives, along with one copy of the appraisal report. Submit packet to WEBB COUNTY Office for submission to the WEBB COUNTY's legal office.
 - v. Upon receipt of concurrence for the Appraisal Witness, request the update of appraisal.
 - vi. Upon receipt of packet prepared by Webb County legal which will include Petition for Condemnation, Lis Pendens, Order Appointing Special Commissioners, Order Setting Hearing, Oath of Special Commissioner, and Notice of Hearings, developed by WEBB COUNTY Attorney; the attorney shall file the original petition with WEBB COUNTY Court at Law or other appropriate Court for a cause number to be assigned.
 - vii. Webb County legal shall file the Lis Pendens including the cause number with the COUNTY Clerk's Office.
 - viii. Upon assignment of a court, Webb County legal shall file the Order Appointing Commissioners with the judge retaining a copy of the Order for the files.
 - ix. Following appointment of Special Commissioners by the judge, WEBB COUNTY shall secure the following documents: Oath of Commissioners signed by the Commissioners, Order Setting Hearing, 2 copies of the Notice of Hearing signed by the Commissioners.
 - x. WEBB COUNTY shall file all originals with the court and send copies marked "copy" to the ACQUISITION AGENT.
 - xi. WEBB COUNTY Attorney shall send a copy of the petition to the Title Company so that the Title Company can make sure the appropriate parties were joined and that no changes in title have occurred.
 - xii. WEBB COUNTY Attorney shall set the Special Commissioners Hearing after the updated appraisal has been submitted, if there is no change in value. If there is an increase in value, WEBB COUNTY will approve the new value and the WEBB COUNTY's provider will present a revised offer and a final offer letter and submit a copy of the final offer letter.
 - xiii. WEBB COUNTY Attorney shall coordinate a pre-hearing conference prior to the hearing (the day before or earlier) to discuss facts of the case with WEBB COUNTY's Acquisition Agent.
 - xiv. After the hearing is set, WEBB COUNTY Attorney shall serve Notices of Hearing to the indicated parties at least 11 days prior to the Commissioner's hearing. If it is necessary to join the Federal Government, be advised that they have an additional 60 days to prepare for the Hearing.
 - xv. Once the notices have been served, WEBB COUNTY Attorney shall file the original notices with the court and send copies stamped "copy" to the ACQUISITION AGENT'S Office.
 - xvi. WEBB COUNTY's Attorney shall send a reminder letter 2-3 weeks in advance to WEBB COUNTY Administration offices, Acquisition Provider, the three special commissioners and court reporter concerning Hearing dates.
- b. Post Hearing Support (by Webb County Legal)
- i. For the hearing, prepare the necessary forms and Special Commissioners time sheets and submit forms to WEBB COUNTY.
 - ii. Obtain the signatures of Special Commissioners on the Award of Commissioners and file with the court for the judge's signatures within 48 hours of the Hearing.
 - iii. Give timesheets to the Judge. The amount paid to the Special Commissioners is determined by the Judge.

- iv. Obtain and distribute 3 certified copies of the award as follows: 1 certified copy to the title company with a request for a commitment, 1 certified copy to WEBB COUNTY, 1 certified copy to the ACQUISITION AGENT with the Commitment to request the warrant in the amount of the Special Commissioners Award.
- v. Send the Commitment and the Award to WEBB COUNTY, along with individual special commissioner's billing requesting the payment for their fees.
- vi. File WEBB COUNTY warrant in the registry of the court. File a Notice of Deposit with the court and send certified copies to each defendant notifying them of the date of the deposit. The Date of Deposit is the Date of Take.
- vii. Take photograph of the interest to be acquired (if necessary) on the day of deposit for relocation verification.
- viii. Send written notices of the date of deposit to WEBB COUNTY Administration office and all interested parties.
- ix. Appear as Expert Witness as requested. Sub-contractors must also appear as Expert Witnesses as requested.
- x. All acquisition negotiations file indicating all "due diligence" provided by the Acquisition Provider will be directed to WEBB COUNTY Attorney's office for his further handling in accordance to the Eminent Domain process by WEBB COUNTY.

4. Payment Schedule

- i. Title Services
 1. Payment on a Per Parcel basis
 2. Milestone will be 100% upon securing initial title commitment
- ii. Appraisal Services
 1. Payment on a Per Parcel basis
 2. Milestone will be 100% upon delivery of complete and acceptable appraisal report
- iii. Appraisal Review
 1. Payment on a Per Parcel basis
 2. Milestone will be 100% upon submission of form ROW-A-10
- iv. Appraisal Update
 1. Payment on a Per Parcel basis
 2. Milestone will be 100% upon complete and acceptable appraisal update
- v. Negotiation, Task & Fees
 1. Payment on a Per Parcel basis
 2. Milestones
 - a. 80% upon presentation of the initial offer
 - b. 20% upon successful negotiation and all instruments recorded
- vi. Closing Service Fees
 1. Payment on a Per Parcel basis
 2. Milestone will be 100% upon recordation of instrument of conveyance
- vii. Relocation Assistance (**Not projected or anticipated only if applicable**)
 1. Payment on a Per Relocation basis
 2. Milestone will be 100% upon issuance of a 90-day vacancy letter

ADDITIONAL RESONSIBILITIES

MEETINGS:

Meetings will be held with the local governments, property owners, utility owners, other consulting firms, etc., as needed or required by WEBB COUNTY. The ACQUISITION AGENT shall coordinate through the ENGINEER and/or WEBB COUNTY for the development of this project with any local entity having jurisdiction or interest in the project (i.e., city, county, etc).

PROJECT TIMELINE:

The project timeline includes time necessary for appraisal inspections, reviews, approvals, etc. ROW Acquisition Services will commence once released.

Right of Way Services start month will commence once released. End month for project acquisition services to be completed within 6–9-month period.

OFFICE LOCATION:

The ACQUISITION AGENT will perform all services to be provided under this agreement at the determined locations of Project Engineer's Alignment Map for the above-mentioned ARPA Projects and any future updates to the alignment map, Webb County Offices and Brighton Group's business office located at: 2805 Fountain Plaza Blvd., Suite A, Edinburg, Texas 78539.

EXHIBIT "B" - Fee Schedule Right of Way Acquisition Services

The following is a Unit Cost per parcel for Brighton Groups Right of Way Acquisition Services. Project Engineer has currently identified 13 parcels that will require services but a possible estimate for an allowance for 20 parcels for acquisition/easement services.

Right of Way Services provided per parcel listed below:

- Project Administration
- Title Services
- Appraisal Services
- Appraisal Review Services
- Negotiations
- Closing Services

UNIT COST PER PARCEL: \$10,500.00

Services not included in Unit Cost and will be negotiated only determined a need for service :

- Appraisal Updates (Only applicable if parcel to be acquired through the condemnation process)
- Relocation Assistance (Not projected or anticipated, a separate work authorization will be issued only if applicable.)

PS error: error occurred in processing invalid font