



AT&T Texas

APPLICATION and LETTER OF AGREEMENT FOR CONSTRUCTION SERVICES

November 29, 2018

CWOTS Record Number: 1247T18

Customer Billing Telephone Number: Special Bill

BILL TO: City of Grand Prairie
317 College Street
Grand Prairie, TX 75050

WORK SITE LOCATION: 318 W. Main St. Grand Prairie, TX 75050

DESCRIPTION OF CONSTRUCTION SERVICES TO BE PERFORMED:

This cost estimate is for project to relocate 1200 pair and 600 pair copper cables feeding SAI along with a 48 fiber. Project will place 1200 feet boring 600 feet in most areas. Splicing involves recons and testing.

LABOR EXPENSE: \$38,172.04;

(Contractor Labor: \$22,170.28; AT&T Labor: \$16,001.76)

MATERIAL EXPENSE: \$12,993.30;

CORPORATE OVERHEAD: \$9,390.31;

ESTIMATED CHARGE FOR CONSTRUCTION SERVICES: ESTIMATED COST: \$60,555.65

(Actual charges may exceed this estimated cost.)

Applicant requests that Southwestern Bell Telephone Company d/b/a AT&T Texas, (hereafter "SWBT") perform the above-described construction services on Applicant's behalf. Applicant agrees to pay the charge(s) indicated above for such services plus applicable taxes. The work is to be done on an "Actual Cost" basis, all charge(s) will be computed in accordance with SWBT's ordinary accounting practices and will include allocated costs for labor, engineering, materials, transportation, motor vehicles, tool and supply expenses and sundry billings from sub-contractors and suppliers for work and materials related to the job. The Applicant affirms that the cost estimate furnished by the Telephone Company has been considered only as an estimate of approximate costs and that the actual costs incurred by the Telephone Company in doing the work at the particular time and location might be higher. Said estimated cost is subject to change due to any number of factors including, but not limited to, changing conditions in the field, weather delays, or changes in the scope of the work.

ESTIMATED PRICE QUOTE

The above estimated price is guaranteed for 60 days from November 29, 2018. If the charges are not accepted within 60 days the order will be cancelled and a new order will need to be placed. The second estimate may be higher than the estimated price set out above.



PAYMENT

Applicant agrees to make an advance payment of **\$60,555.65** prior to commencement of the work. Charges for construction services and applicable taxes will be billed on a special bill separate from the bill that Applicant receives for telephone service.

Applicant, its agents, servants, or employees agree to make payment on change orders within thirty (30) days of the date of signature on the change order. Failure to make payment within the designated thirty (30) day time period will operate to cancel the change order and SWBT will cease all work activity on the project until payment is made.

When the Applicant agrees to Interval Billing *, the balance of the Contract Price or Actual Cost (as applicable) will be made in monthly payments. If the Actual Cost made varies from the Estimated Cost, then a correcting adjustment will be made in the last payment. If the parties cannot agree to Interval Billing, Applicant will make an advanced payment as indicated above.

*Applicable to orders over \$25,000 and work will take 6 or more months to complete

TAXES

Applicant will pay and indemnify SWBT against all sales, use and other taxes (excluding income and franchise taxes), including fees, levies, other similar charges, interest and penalties imposed upon and paid by or assessed on SWBT by reason of its sale and installation of material and provision of construction services under this Application except to the extent a valid tax exemption certificate is provided by Applicant to SWBT prior to the delivery of material and provisioning of construction services.

STOP WORK ORDER

In the event that Applicant issues a stop work order, or places the project "on hold", at any point during the progress of the work, said stop work order or request to "hold" work must be issued in writing and must be delivered via certified mail, return receipt requested to the **Custom Work Order Department, 4801 Matlock Road, Room B16, Arlington, Texas, 76018**. If Applicant issues a stop work order, or a request to "hold" work, the contract price quoted herein will remain valid until sixty (60) days from the date of the stop work or "hold" work order. At the expiration of the sixty (60) days, the contract price quoted herein will expire and a new contract price will be determined and provided, in writing, to Applicant. The new contract price may be higher than the contract price quoted in this custom work order.

If, after issuing a stop work, or "hold" work order, Applicant elects to cancel the contract, Applicant must inform SWBT, in writing of the cancellation. Southwestern Bell Telephone Company will deduct any expenses incurred in performing the work from Applicant's advance payment and refund any remaining funds to Applicant.

Under no circumstances will SWBT, be responsible to Applicant for any alleged damages or additional expenses incurred by Applicant as a result of a stop work order or an order to "hold" work on the project.

CANCELLATION

If the Applicant cancels the work prior to completion, Applicant must notify SWBT, in writing of said cancellation.

If Applicant elects to cancel the work prior to completion, Applicant agrees to pay SWBT for the costs it has incurred in starting performance under the contract. If Applicant has made an advance payment, SWBT will deduct its costs and expenses incurred as of the date of Applicant's notice of cancellation from the amount of the advance payment. Any amount remaining will be refunded to Applicant.



CHANGES IN SCOPE OF WORK OR CHANGES IN FIELD CONDITIONS

Should concealed conditions exist, including conditions that may exist below the surface of the ground, or if conditions exist that could not have been anticipated by SWBT at the time of this agreement, SWBT will be entitled to additional funds and/or additional time to complete the work. Southwestern Bell Telephone Company will request such additional funding and/or additional time through a request for a change order.

Conditions that may materially alter the scope of the work and/or the cost associated with the work include but are not limited to conditions that exist below the surface of the ground and could not have been anticipated at the time of the price quote, above ground barriers, Acts of God affecting the progress or sequencing of the work, labor disputes, and other conditions or circumstances that SWBT, could not reasonably anticipate at the time of providing the above referenced price quote to Applicant.

Should Applicant or its agents, servants, or employees order or seek changes in the scope of the work, SWBT is entitled to seek from Applicant, its agents, servants, or employees, additional funds as necessary to perform the work, and additional time, as necessary to complete the work. Said request for additional funds and/or additional time will be through change order.

All change orders will be in writing.

All change orders will be submitted and accepted by Applicant, its agents, servants or employees, before SWBT proceeds to execute the work or, if work has been initiated on the project, continues with executing the work except in an emergency endangering life or property.

Applicant, its agents, servants or employees, are deemed to have accepted the terms of any change order by signing where indicated on the change order.

Under no circumstances will SWBT's request for a change order be deemed or used as evidence of delay on the project. Nor will any change order issued in this project be used to charge SWBT with responsibility for any alleged delay on the project.

NO DAMAGE FOR DELAY

Under no circumstances will SWBT be held liable to Applicant, Applicant's agents, employees or contractors, for any alleged delay on the project that forms the basis for this agreement for construction services.

TIME TO COMPLETE

Any representation by SWBT, its agents, servants or employees that the project, or any additional work authorized by change order, will be complete by a certain date or certain time period is strictly an estimate and not binding on SWBT, its agents, servants, or employees. All estimated completion dates are subject to changing conditions in the field, changes in the scope of the work, relocation of existing utilities not within SWBT's control, Acts of God, weather delays, labor disputes, vendor/contractor disputes, and other conditions or circumstances that SWBT, its agents, servants, or employees, could not reasonably anticipate at the time of the estimate.

CHOICE OF LAW AND ARBITRATION

Should any dispute arise between the parties concerning the subject matter of this agreement, or any term contained therein, the parties agree that the dispute or claim shall be submitted to binding arbitration before the American Arbitration Association. The parties further agree that the prevailing party in any such dispute will be entitled to recover attorney's fees and costs of arbitration.

Texas law governs the application of this agreement and all terms contained therein.



AT&T Texas

November 29, 2018

RE: CWOTS Record Number 1247T18

Dear Mark Stone,

This letter is in regards to your request for Southwestern Bell Telephone Company d/b/a AT&T Texas (hereafter "SWBT") to perform construction services for you. Enclosed please find an Application and Letter of Agreement for Construction Services. This application describes the construction services you have requested along with the associated charges for us to do the work. We require an advance payment on this amount, which is also shown on the application.

Both the **SIGNED APPLICATION** and the **ADVANCE PAYMENT**, made payable to AT&T, must be received by our office before we can proceed on your behalf with the work. Our mailing address for these documents is listed below:

SWBT d/b/a AT&T Texas
Attn: Yvonne Potter
4801 Matlock Road, Room B16
Arlington, TX 76018
Office Hours: 7:00 AM to 3:30 PM

If you decide not to proceed with this work, please call our business office so that we may cancel your request. As always, please feel free to contact our business office at 888-321-8536 if you have any questions regarding this matter.

Please refer to the record number at the top of your application to assist us in locating your file.

Sincerely,

Yvonne Potter

Yvonne Potter
AT&T CWOTS Department
Office: 888-321-8536



AT&T Texas

INDEMNIFICATION AND HOLD HARMLESS

Applicant, its agents, servants, and employees hereby agree to indemnify and hold harmless SWBT, and its employees, agents and contractors, from and against any and all claims, costs, expenses, judgments or actions for damage to property or injury or death to persons, and/or arising from or relating to the work that is the subject of this agreement, to the extent any such claims are caused by the negligent acts or omissions of the Applicant, its agents, servants, or employees.

ENTIRE AGREEMENT

The parties agree that the terms set forth herein constitute the entire agreement and there are no other agreements regarding the project that is the subject of this agreement between the parties.

MODIFICATION & NOTICE

Any modification to this agreement must be made in writing and signed by both parties. Any party to this agreement may provide the other party with notice of any fact or condition by providing such information in writing and serving said writing via certified mail, return receipt requested.