

## **CAMINO REAL REGIONAL MOBILITY AUTHORITY BOARD RESOLUTION**

**WHEREAS**, the Camino Real Regional Mobility Authority (CRRMA) selected the Americas Gateway Builders (AGB) as the design-build contractor for the design and construction of the I-10 at Loop 375 (Americas Interchange) Project and authorized staff to negotiate applicable contract documents, including the Design Build Comprehensive Development Agreement (CDA) for such Project;

**WHEREAS**, the CDA for the Americas Interchange Project was executed by the CRRMA and AGB on August 31, 2010 in order to pursue the Americas Interchange Project, which included a requirement that AGB be responsible for relocation of only those utilities that are in conflict with the construction scope identified within the CDA;

**WHEREAS**, a telecommunications line in the northeast quadrant of the project limits has been found to be in conflict with a future direct connector identified within the approved schematic that is currently being designed by the CRRMA; and

**WHEREAS**, the Americas Interchange Project includes work on Interstate 10 and therefore, all utility work is 100% reimbursable, the CRRMA desires to pay for the relocation of the referenced telecommunications line;

**NOW, THEREFORE, BE IT RESOLVED BY THE CAMINO REAL REGIONAL MOBILITY AUTHORITY:**

**THAT** the Executive Director be execute an agreement with Southwestern Bell Telephone Company (d/b/a AT&T) for the relocation of a telecommunications line at a cost of SIX THOUSAND FOUR HUNDRED NINETY TWO AND 14/100 DOLLARS (\$6,492.14) for the I-10 at Loop 375 (Americas Interchange) Project.

**PASSED AND APPROVED THIS 23<sup>RD</sup> DAY OF MAY 2012.**

**CAMINO REAL REGIONAL  
MOBILITY AUTHORITY**

**ATTEST:**

\_\_\_\_\_  
Ralph Adame, Vice Chair

\_\_\_\_\_  
Susan A. Melendez, Board Secretary

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Raymond L. Telles  
Executive Director



## APPLICATION and LETTER OF AGREEMENT FOR CONSTRUCTION SERVICES

Application Date:  
May 11, 2012

CWOTS Record Number:

763T12

**BILL TO:** Camino Real Regional Mobility Authority

**WORK SITE LOCATION:** 1421 RV Drive  
**DESCRIPTION OF CONSTRUCTION SERVICES TO BE PERFORMED:** The work will consist of rerouting the cable & demarcation.

**LABOR & MATERIAL EXPENSE:** \$6,492.14  
**TARIFF/ LICENSE AGREEMENT EXPENSE:** \$0

**CHARGE FOR CONSTRUCTION SERVICES:** **CONTRACT PRICE:** \$6,492.14

Applicant requests that Southwestern Bell Telephone Company d/b/a AT&T Texas, (hereafter "SWBT") perform the above-described construction services on the Applicant's behalf. Applicant agrees to pay the charge(s) that are indicated above for such services. The charge(s) will be computed in accordance with Southwestern Bell Telephone Company'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.

### PRICE QUOTE

The estimated price is guaranteed for 60 days from the application date listed above. 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

Charges for construction services 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 Southwestern Bell Telephone Company, will cease all work activity on the project until payment is made.

When the Parties agree 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.



#### **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 **Karen Benton, 817 W. North Loop Blvd., Room 200, Austin, TX 78756**. 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 Southwestern Bell Telephone Company, 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 Southwestern Bell Telephone Company, 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 Southwestern Bell Telephone Company, in writing of said cancellation.

If Applicant elects to cancel the work prior to completion, Applicant agrees to pay Southwestern Bell Telephone Company for the costs it has incurred in starting performance under the contract. If Applicant has made an advance payment, Southwestern Bell Telephone Company 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 Southwestern Bell Telephone Company, at the time of this agreement, Southwestern Bell Telephone Company 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 Southwestern Bell Telephone Company 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, Southwestern Bell Telephone Company, 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 Southwestern Bell Telephone Company 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 Southwestern Bell Telephone Company'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 Southwestern Bell Telephone Company with responsibility for any alleged delay on the project.

#### **NO DAMAGE FOR DELAY**

Under no circumstances will Southwestern Bell Telephone Company, 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 Southwestern Bell Telephone Company, 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 Southwestern Bell Telephone Company, 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 Southwestern Bell Telephone Company's, control, Acts of God, weather delays, labor disputes, vendor/contractor disputes, and other conditions or circumstances that Southwestern Bell Telephone Company, 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.

#### **INDEMNIFICATION AND HOLD HARMLESS**

Applicant, its agents, servants, and employees hereby agree to indemnify and hold harmless Southwestern Bell Telephone Company, 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

**ACCEPTED FOR CUSTOMER:**

\_\_\_\_\_  
Authorized Signature  
Title or Relationship to Company or Individual  
\_\_\_\_\_

Company: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

**ACCEPTED FOR SOUTHWESTERN BELL  
TELEPHONE COMPANY:**

\_\_\_\_\_  
Title: Manager-Custom Work Order Department

Company: Southwestern Bell Telephone Company

Printed Name: Karen Benton

Date: \_\_\_\_\_