



Department of

Community Investment

Memorandum

February 11, 2016

TO: South Bend Redevelopment Commission
FROM: David Relos, Economic Resources *DR*
SUBJECT: AT&T Letter of Agreement - Ignition Park South

This past year most utilities between Kemble and Scott streets have been relocated in Ignition Park South, as well as the streets and alleys vacated and removed. As part of the removal process of Kendall Street, an underground fiber line was discovered. This line feeds a business on the north side of the Norfolk Southern Rail Road, and must be relocated so this approximately 12 acre site can be fully utilized.

This line has been identified as being owned by AT&T, and on January 14th, the Commission approved an Authorization to Prepare Quote, for AT&T to engineer the disconnection and relocation of this line.

The cost for AT&T to remove and relocate service to the company using this line is \$17,214.43.

Staff requests approval of this Agreement in a not-to-exceed amount of \$20,000.





CR#: 184237
PJT#:A00AUXK

APPLICATION and LETTER OF AGREEMENT FOR CUSTOM WORK

February 8, 2016

BILL NAME:	CITY OF SOUTH BEND
BILLING ADDRESS:	227 WEST JEFFERSON BLVD SUITE 1400S SOUTH BEND IN 46601
BILLING CONTACT NAME:	DAVE RELOS
BILLING CONTACT NUMBER:	(574) 235-5836
SITE CONTACT NAME & NUMBER:	SAME
WORK SITE LOCATION:	1509 KENDALL, SOUTH BEND, IN
DESCRIPTION OF CUSTOM WORK:	RELOCATE AT&T FACILITIES

Estimated Fixed Cost Invoice

Expenses	Amount
ENGINEERING LABOR	\$4,828.44
MATERIAL COST	\$438.85
CONSTRUCTION LABOR	\$6,119.73
CONTRACTOR COST	\$5,827.41
Estimated Contract Price	\$17,214.43
Less Credits/Payments	\$0.00
Total Balance Due	\$17,214.43

Applicant requests that Indiana Bell Telephone Company d/b/a AT&T Indiana, (hereafter "Indiana Bell Telephone Company") perform the above-described custom work on Applicant's behalf. Applicant agrees to pay the charge (s) indicated above for such work. The charge(s) will be computed in accordance with Indiana Bell Telephone Company's ordinary accounting practices and will include its estimate for allocated costs for labor, engineering, materials, transportation, motor vehicles, tool and supply expenses, corporate overhead loadings, and sundry billings from sub-contractors and suppliers for work and materials related to the job.

Applicant agrees to make an advance payment of **\$17,214.43** prior to commencement of the work.



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CANCELLATION

If the Applicant cancels the work prior to completion, Applicant must notify Indiana Bell Telephone Company, in writing of said cancellation.

If Applicant elects to cancel the work prior to completion, Applicant agrees to pay Indiana Bell Telephone Company for the costs it has incurred in starting performance under the contract. If Applicant has made an advance payment, Indiana 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.

PRICE QUOTE

The price is guaranteed for 60 days from February 8, 2016. 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 price that was originally quoted.

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 **Steve Piette 220 Wisconsin Ave, Flr 2, Waukesha, WI 53186**. 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 Indiana Bell Telephone Company, in writing of the cancellation. Indiana Bell Telephone Company will deduct any costs and expenses incurred in performing the work from Applicant's advance payment, and refund any remaining funds to Applicant.

Under no circumstances will Indiana 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.

CHANGES IN SCOPE OF WORK OR CHANGES IN FIELD CONDITIONS/CONTRACTOR COSTS

The parties recognize that this is a fixed cost contract. However, if Applicant initiates changes in the scope of the work after Indiana Bell Telephone Company, has provided Applicant with the above referenced price quote, or after Applicant executes this fixed price contract, whichever is earlier, the above price quote is null and void and Applicant must request that a new estimate be provided based on the revised/alterd scope of work; this contract will continue to apply until replaced by a new contract associated with the revised/alterd scope of work.

In the event that there exists a condition in the field that is different from field conditions that existed at the time Indiana Bell Telephone Company provided the above referenced price quote to Applicant, or after Applicant executes this fixed price contract, whichever is earlier, the above price quote is null and void and Applicant must request that a new estimate be provided based on the changed field conditions; this contract will continue to apply until replaced by a new contract associated with the revised/alterd scope of work.



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Field 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 Indiana Bell Telephone Company, could not reasonably anticipate at the time of providing the above referenced price quote to Applicant.

Additionally, if the contractor bid exceeds the estimated contractor costs the applicant will be responsible for additional costs and a change order will be issued for customer approval.

Work will not commence until signed changed order and additional payment has been received.

NO DAMAGE FOR DELAY

Under no circumstances will Indiana 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 custom work order.

TIME TO COMPLETE

Any representation by Indiana Bell Telephone Company, its agents, servants or employees that the project, will be complete by a certain date or certain time period is strictly an estimate and not binding on Indiana 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 Indiana Bell Telephone Company's control, Acts of God, weather delays, labor disputes, vendor/contractor disputes, and other conditions or circumstances that Indiana 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.

The state law where the Work Site Location is located governs the application of this agreement and all terms contained therein.



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INDEMNIFICATION AND HOLD HARMLESS

Applicant, its agents, servants, and employees hereby agree to indemnify and hold harmless Indiana 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 Applicant agrees 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.

CR Record #184237

ACCEPTED FOR CUSTOMER:

AT&T CWO Manager Contact Information

Authorized Signature

Title: _____

Company: _____

Printed Name: _____

Date: _____

CWO
Manager: **Steve Piette**

Phone
Number: **888-618-6812**

Fax Number: **888-901-2821**

Date: **February 8, 2016**

Please send check made payable to AT&T CWO; along with signed agreement to:

**AT&T CWO ATTN: Steve Piette
220 Wisconsin Avenue, FLR 2
Waukesha, WI 53186**