



5/30/2019

City of Franklin
109 3rd Ave South
Franklin, Tn 37064

RE:Relocate aerial facilities for new fire station per request:

AT&T has received a request from you (or your company) to perform the following work:

Relocate aerial fiber and copper cables around west side of new building to avoid conflict with new building construction. Splice/cutover working circuits and anchor/guy as necessary

Special construction charges apply. Engineering and Construction will not begin until the attached contract is signed by you or your authorized agent. **The original signed contract must be received at the AT&T Southeast office address shown below before AT&T will proceed with any work.**

This quote is only valid for 60 days from the date of this letter. If I can be of further assistance, please do not hesitate to contact me at 615-585-0473

Sincerely,

A handwritten signature in black ink, appearing to read "David Tutterrow".

David Tutterrow
615-585-0473
AT&T Tennessee

Project # A01K5DP Job Authority # 98C15483B

NOTE: Please associate the Project # above with the check or other form of payment.

Return the original signed contract to:

ATT Southeast
904 S High St
Columbia, Tn 38401
<Attention: David Tutterrow

Payment in full is required within thirty days after the date of the AT&T invoice for the charges associated with the work performed.



SPECIAL CONSTRUCTION AGREEMENT

Project #: A01K5DP
Authority: 98C15483B
AT&T Contact: David Tutterrow
Telephone #: 615-585-0473

Customer Name: City of Franklin
Customer Number: 615-550-6628
Work Site Address: Peytonsville Rd

This Special Construction Agreement ("Agreement") is entered into by and between BellSouth Telecommunications, LLC. d/b/a AT&T Southeast ("AT&T") and City of Franklin ("Customer"). AT&T and Customer hereby agree to the following terms and conditions:

1. **Tariffs/Guidebooks.** This Agreement is subject to and controlled by the provisions of AT&T's tariffs/guidebooks as applicable and all such revisions to said documents as may be made from time to time.
2. **Special Construction.** This Agreement is for the special construction as further described on Exhibit 1, attached hereto and incorporated herein by this reference ("Special Construction"). **Payment in full is required within thirty days (30) after AT&T issues an invoice to the Customer for the Special Construction Charges.**
3. **Early Termination.** Should Customer terminate or cancel this Agreement prior to the completion of construction, Customer shall remain liable for the Special Construction Charges. Customer acknowledges and agrees AT&T shall incur substantial up-front costs in connection with its performance under this Agreement and that damages in the event of such early termination or cancellation are not readily ascertainable and that in such event of early termination payment of the Special Construction Charges is reasonable. Customer further acknowledges and agrees that it hereby waives any right to contest such payment of the Special Construction Charges for any reason, including, but not limited to reasonableness of the charges, quality of the work, or timeliness of the work.
4. **Limitation of Liability.** AT&T's maximum liability arising in, out of or in any way connected to this Agreement shall be as set forth in the tariffs and/or guidebooks, if and as may be applicable, and in no event shall exceed Special Construction Charges paid by Customer to AT&T.
5. **Severability.** Any provision of this Agreement held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Agreement and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.
6. **Successors and Assigns.** This Agreement is binding upon and shall inure to the benefit of the parties and their respective successors and assigns.
7. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.
8. **Effect of Waiver.** No consent or waiver, express or implied shall be deemed a consent to or waiver of any other breach of the same or any other covenant, condition or duty.
9. **Headings.** The headings, captions, and arrangements used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.



10. **Modification.** This Agreement constitutes the entire agreement between the parties and can only be changed in a writing or writings executed by both of the parties. Each of the parties forever waives all right to assert that this Agreement was the result of a mistake in law or fact.
11. **Interpretation.** The parties agree that this Agreement shall not be interpreted in favor or against either any party. The parties further agree that they entered into this Agreement after conferring with legal counsel, or after having a reasonable opportunity to confer with legal counsel.
12. **Applicable Law.** This Agreement shall be governed and interpreted in accordance with the laws of the State of Tennessee without regard to Tennessee's conflict of law principles. The choice of forum and venue shall be solely in the Courts of Williamson County, TN.
13. **Attorneys' fees.** If either party materially breaches this Agreement and should the non-breaching party seek to enforce it rights through legal action, the prevailing party shall recover from the other party all costs and expenses incurred, including, but not limited to, reasonable attorneys' fees.
14. **Authority.** The signatories to this Agreement represent and warrant that they are duly authorized to execute this Agreement.
15. **No Precedent.** Except for the matters resolved and released herein, this Agreement is of no value and shall not be considered precedent for resolving any dispute that may arise in the future.
16. **Changes in Scope of Work.** The parties recognize that this is an 'Actual Cost' contract. A preliminary cost estimate of FIFTY THOUSAND SEVEN HUNDRED THIRTY-EIGHT and 00/100 DOLLARS (\$50,738.80) has been provided. If the Customer initiates changes in the scope of the work after AT&T has provided this cost estimate or after executing this contract, the above cost estimate and this contract are null and void. A new cost estimate must be provided based on the new scope of work and a new contract entered. Additionally, in the event there exists a condition in the field that is different from the field conditions that existed at the time AT&T provided the quote or from the time the Customer executes the contract, AT&T shall bill and Customer shall pay any additional cost. Field conditions that may alter the cost associated with this 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 AT&T could not have reasonably anticipated at the time the cost estimate was provided.
17. **Final Agreement.** THIS AGREEMENT REPRESENTS THE ENTIRE AND FINAL EXPRESSION OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF. THIS AGREEMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES; THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. NO MODIFICATION, RESCISSION, WAIVER, RELEASE OR AMENDMENT OF ANY PROVISION OF THIS AGREEMENT SHALL BE MADE, EXCEPT BY A WRITTEN AGREEMENT SIGNED BY BOTH PARTIES.
18. **Indemnification.** AT & T, at its own expense, shall indemnify, defend, and hold the City of Franklin, Tennessee, its officers employees, agents, directors, and officials harmless any and all costs, losses, damages, claims, suits or any liability whatsoever, including attorney's fees, resulting from injury including death, to person or damage to property arising out of, or in any manner connected with the contractor's use of CITY OF FRANKLIN, Tennessee property and from any violation of any applicable law or regulation arising out of or relating to this Agreement.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative on the dates set forth below. This quote is only valid for 60 days from the date of this letter.

CUSTOMER

By Ken Moore
Printed Name
By
Authorized Signature
Title Mayor, City of Franklin
Date

AT&T Southeast

By David Tutterrow
Printed Name
By 
Authorized Signature
Title Mgr Planning and Engineering
Date 05/31/2019

Approved as to Form:

Tiffani M. Pope, Staff Attorney



EXHIBIT 1
DESCRIPTION OF SPECIAL CONSTRUCTION

Place new fiber and copper cable from pole located on south side of Peytonsville Rd, across from new building, north along the existing pole route located west of the new building. Place new cable to meetup point northwest of new building with existing fiber and copper cables. Place anchors and guys as necessary. From same pole on south side of Peytonsville Rd, place new fiber and copper cables to the south, meeting up with existing fiber and copper cables on the pole route on the east side of Peytonsville Rd. Place anchors and guys as necessary. Splice and cutover all existing circuits in existing cables to the new cables. Remove the existing fiber and copper cables currently on the east and north side of new building. Remove all anchors and guys associated with cables.