

STATE OF TEXAS           §  
   §  
 COUNTY OF FORT BEND §

FIRST AMENDMENT TO RELOCATION AGREEMENT

THIS FIRST AMENDMENT to the Relocation Agreement is made and entered into by and QWEST COMMUNICATIONS COMPANY, LLC, hereinafter referred to as "Company" authorized to conduct business in the State of Texas, and the Fort Bend County Drainage District, a body corporate and politic under the laws of the State of Texas, acting by and through its Board of Directors, hereinafter "District."

**RECITALS**

WHEREAS, on September 8, 2010, Company and District entered an agreement for relocation of certain conduit systems owned by Company for District's construction of a proposed drainage channel, (collectively, the "Agreement") attached hereto as Exhibit B, incorporated by reference as if set forth herein verbatim. Company and District desire to amend said Agreement as set forth in Company's invoices dated June 15, 2010 and May 27, 2010, attached hereto as Exhibit A, incorporated herein by reference as if set forth verbatim.

NOW, THEREFORE, in consideration of the foregoing, the Agreement between Company and District is hereby amended to read:

- A. An additional amount not-to-exceed \$22,328.18 shall be available for additional services provided under the Agreement as described in Exhibit A.
- B. Company's compensation for the Project shall not exceed \$234,219.94, which includes the original scope of work and the additional services described in Exhibit A.
- C. No additional funding shall be available for services provided under the Agreement without prior written consent of District.
- D. Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
- E. If there is a conflict between this First Amendment and the Agreement, the provisions of this Amendment shall prevail.

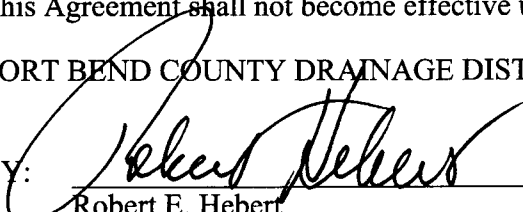
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## EXECUTION

This Agreement shall not become effective until executed by District.

FORT BEND COUNTY DRAINAGE DISTRICT


BY:

  
Robert E. Hebert  
Drainage District Board Chairman

Date

8-24-10

Attest:

  
Dianne Wilson, County Clerk

COMPANY: QWEST COMMUNICATIONS COMPANY, LLC

Signature

Date

Printed Name:

TERI M. WOLF

Title:

DIRECTOR, ENGINEERING

07/04/2010

MER:Qwest Communications.DD.3523.AMEND

## AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$234,219.94 to accomplish and pay the obligation of the Fort Bend County under this contract.

  
Ed Sturdivant, Fort Bend County Auditor

Exhibit A: Invoice dated June 15, 2010 and May 27, 2010  
Exhibit B: Original Agreement dated September 8, 2010

# EXHIBIT A

PROJECT #  
PROJECT TITLE

CNO0030  
Fort Bend County UPRR Bridges 25.3 and 25.35 Relocation

RECEIVED

JUN 15 2010

ERC DRAINAGE DIST.



Summary of Actual Costs					
Material Cost	VENDOR	DATE	AMOUNT	SUBTOTAL	TOTAL
Fiber Optic Cable	DF8 Fiber, LLC (Invoice No. 91010726)	10/14/2009	56,840.00		
				56,840.00	
Pre-Post-Test Fiber	Lighthouse Fiber Optics, LLC (Invoice No. 10277)	12/4/2009	792.00		
				792.00	
Splicing Supplies	Cable and Communications Supply, Inc. (Invoice No. 1059587)	12/16/2009	252.4		
				252.4	
<b>TOTAL MATERIAL COST</b>					<b>\$ 57,884.40</b>

External Labor Cost	VENDOR	DATE	AMOUNT	SUBTOTAL	TOTAL
Outside Plant - Engineering	GXT, Ltd. (Invoice No. 09558)	10/5/2009	4,986.00		
	GXT, Ltd. (Invoice No. 09684)	11/17/2009	386.00		
	GXT, Ltd. (Invoice No. 09743)	12/9/2009	1,350.00		
				6,730.00	
Outside Plant - Construction	MasTec (Invoice No. 093811245772)	12/9/2009	90,302.20		
				90,302.20	
Outside Plant - Splice Testing	Western Lighthouse, Inc. (Invoice No. J1536-01)	12/4/2009	16,632.50		
	Western Lighthouse, Inc. (Invoice No. J1537-01)	12/4/2009	3,688.60		
				22,221.00	
Inspection Services/Redlines	Quality Integrated Services, Inc. (Invoice No. 4863-103009)	10/29/2009	1,680.00		
	Quality Integrated Services, Inc. (Invoice No. 4863-112709)	11/27/2009	4,760.00		
				6,440.00	
CAD Drawings	Int'l CADD Services (Invoice No. 14414)	4/13/2010	3,460.00		
				3,460.00	
Railroad Flagging Support	Union Pacific Railroad Company (Invoice No. 90006118)	11/10/2009	11,351.53		
	Union Pacific Railroad Company (Invoice No. 90006739)	12/7/2009	24,564.62		
				35,916.15	
<b>TOTAL EXTERNAL LABOR COST</b>					<b>\$ 185,068.35</b>

Internal Labor Cost	QWEST EMPLOYEES	DATE	AMOUNT	SUBTOTAL	TOTAL
Construction Field Support	CAD - Records & Documentation				
	DIRECT ENGR-SAL AND WAGES	3/1/2009	50.75		
				50.75	
	Outside Plant Planning & Engineering				
	GENERAL SUPRVSN SALARIES	09/01/2009	329.60		
	DIRECT ENGR-SAL AND WAGES	09/01/2009	1367.40		
				1697.00	
	Outside Plant Construction				
	GENERAL SUPRVSN SALARIES	9/1/2009	45.28		
	DIRECT ENGR-SAL AND WAGES	9/1/2009	578.88		
				624.16	
	Outside Plant Construction				
	GENERAL SUPRVSN SALARIES	10/01/2009	288.66		
	DIRECT ENGR-SAL AND WAGES	10/1/2009	3690.36		
				3979.02	
	Outside Plant Construction				
	GENERAL SUPRVSN SALARIES	10/1/2009	22.64		
	DIRECT ENGR-SAL AND WAGES	10/1/2009	289.44		
				312.08	
	Outside Plant Construction				
	GENERAL SUPRVSN SALARIES	11/1/2009	152.62		
	DIRECT ENGR-SAL AND WAGES	11/1/2009	1953.72		
				2106.34	
	Outside Plant Construction				
	GENERAL SUPRVSN SALARIES	11/1/2009	135.84		
	DIRECT ENGR-SAL AND WAGES	11/1/2009	1736.64		
				1872.48	
	Outside Plant Construction				
	GENERAL SUPRVSN SALARIES	12/1/2009	45.28		
	DIRECT ENGR-SAL AND WAGES	12/1/2009	578.88		
				624.16	
				11,266.19	
<b>TOTAL INTERNAL LABOR COST</b>					<b>\$ 11,266.19</b>

Project Subtotal 234,219.94  
Total Project Cost \$ 234,219.94

ACCOUNT NO : \* BCN00030  
STATEMENT DATE: 05-27-2010

CUSTOMER ID: 672112

PREVIOUS BALANCE	- PAYMENTS	+ CURRENT CHARGES	+ LATE CHARGE	= NEW BALANCE	AMOUNT DUE	PAYMENT DUE DATE
234,219.94	.00	.00	.00	234,219.94	234,219.94	PAST DUE

NNS CONSTRUCTION 100% REIMBURSABLE.  
SERVICE ADDRESS: IN THE CITY OF SUGARLAND, IN THE COUNTY OF FORT BEND,  
AT THE UPRR BRIDGES MP 25.3 AND 25.35 IN THE STATE OF TEXAS.

BILLING AUTHORITY NUMBER ACCOUNT STATEMENT

DATE	INVOICE	PREVIOUS BALANCE	- PAYMENTS & CREDIT	+ CURRENT CHARGES	+ LATE CHARGES	= NEW BALANCE
05-20-10	A163857	234,219.94	0.00	0.00	0.00	234,219.94
				TOTAL	\$	234,219.94

RECEIVED  
JUN 15 2010  
FBC DRAINAGE DIST.

IF YOU HAVE ANY QUESTIONS, PLEASE CALL (303) 299-0168  
Return this portion with your payment - please write the invoice # on your check.

ACCOUNT NO: \* BCN00030  
STATEMENT DATE: 05-27-2010

672112 11902193

NEW BALANCE	AMOUNT DUE	PAYMENT DUE DATE
234,219.94	234,219.94	PAST DUE

AMOUNT ENCLOSED: \_\_\_\_\_

RETURN PAYMENT TO:

QWEST COMMUNICATIONS COMPANY LLC  
P.O. BOX 52187  
PHOENIX, AZ 85072-2187

ATTN: MR DWAYNE G GRIGAR, CFM  
FORT BEND COUNTY DRAINAGE DIST  
1004 BLUME ROAD  
ROSENBERG, TX 77471

92672112\*//BCN00030ASTATEM052720109000234219940900CC/

## Exhibit B

### RELOCATION AGREEMENT

THIS RELOCATION AGREEMENT ("Agreement"), is made and entered into as of the 3<sup>rd</sup> day of Sept., 2009, by and between **Fort Bend County Drainage District, Texas** having an office at 1004 Blume Road, Rosenberg, Texas 77471, hereinafter referred to as the "Agency" and **Qwest Communications Company, LLC**, a Delaware Company, having an office at 1801 California Street, Floor 26, Denver, Colorado 80202, hereinafter referred to as the "Company."

#### WITNESSETH:

**WHEREAS**, Company owns and operates a communications conduit system (the "Facilities") along and upon the right of way of Union Pacific Rail Road, hereinafter referred to as "UPRR" at Mile Post 25.35 and 25.30 the location for the proposed construction of a drainage channel, more fully described in Exhibit A, which is attached hereto and incorporated herein by this reference (the "Right Of Way"); and

**WHEREAS**, the Agency is preparing plans, specifications and estimates of costs of constructing its own facilities in the Right Of Way, and has determined that the facilities of Company and the other communications companies must be relocated to accommodate the construction activities of Agency; and

**WHEREAS**, Company and Agency have reached an agreement for reimbursement of the costs of such relocation that will separately be incurred by Company ("Exhibit B, Estimate of Relocation Cost").

**NOW, THEREFORE**, in consideration of the foregoing, and for other good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and between the parties as follows:

1. The Company shall relocate the communications conduit systems owned by Company and the Cooperating Carriers (collectively the "Carrier Facilities") in the Right Of Way. A substitute location for the communications facilities, and the materials and methods used in the relocation, are subject to the prior review and approval by Owner. The Company shall not perform any construction until authorized in writing by both the Agency and the owner of the Right Of Way (the "Owner", UPRR).
2. The Company will notify Agency's Project Engineer by telephone at least twenty-four (24) hours before beginning any work covered by this Agreement.
3. Agency shall reimburse Company for all costs incurred by Company in relocating the Carrier Facilities. A non-binding estimate of the costs to be incurred is set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. Before authorizing any additional charge in excess of the \$211,891.76, Company shall obtain the written consent from Agency, which shall not be unreasonably withheld. Company shall have the right to approve charges which are equal to or less than the foregoing amounts to the extent that Company reasonably deems such changes to be

necessary, including, without limitation, changes required to comply with applicable local, state or federal laws, rules or regulations.

4. Company will make its contractor aware of the need for the Company to coordinate performance of the work with the Agency. Agency acknowledges that Company's construction schedule, flagging, protection and right of entry is controlled by the Owner and denial of access to the right of way for performance of such work by Owner shall be deemed an event of "force majeure."

5. The Company shall submit itemized bills covering the actual costs incurred for performing the work covered herein, together with supporting documentation. Agency agrees to pay the full amount within forty-five days following receipt of each bill.

6. If any action is brought to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees and costs of such action, in addition any other remedy to which it may be entitled. Venue shall lie in Fort Bend County.

7. Company shall obtain and maintain during the course of Work, the following insurance: (a) Commercial General Liability (for bodily injury) with combined single limit of not less than \$2,000,000.00 each occurrence or its equivalent; (b) Worker's Compensation in amounts required by applicable law and Employer's Liability with a limit of at least \$1,000,000.00 each accident; and (c) Automobile Liability including coverage for owned/leased, non-owned or hired automobiles with combined single limit of not less than \$1,000,000.00 each accident. Agency is a governmental entity and maintains self insurance as allowed by law.

8. This Agreement constitutes the entire agreement of the parties with respect to the subject matters hereof, and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

Qwest Communications Company, LLC

By: [Signature]  
Name: Peter Ball  
Title: VP-CTO  
Date: 8/31/09

Fort Bend County Drainage District

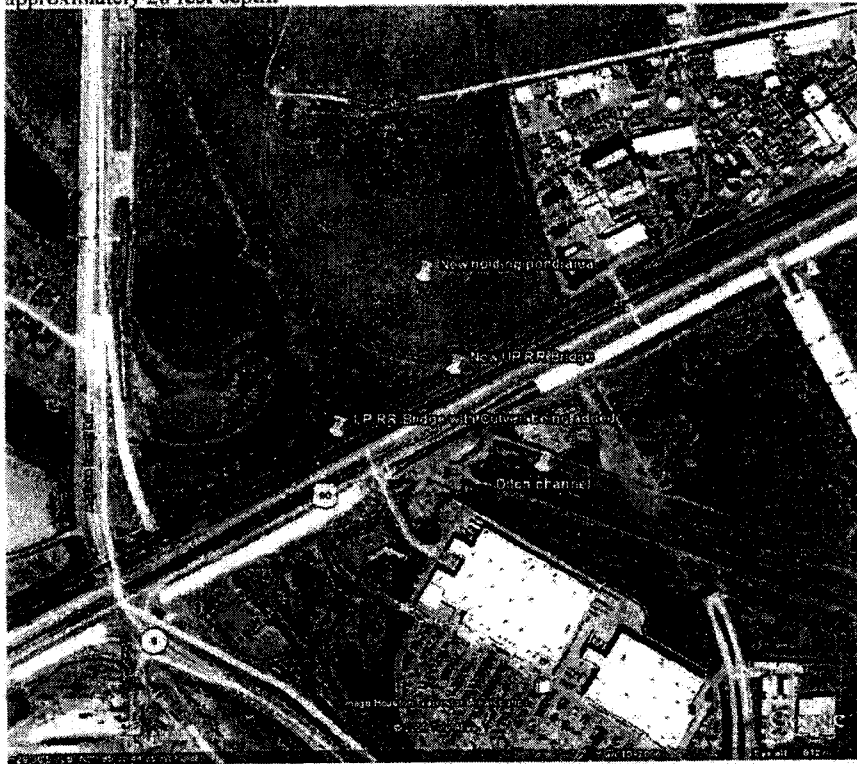
By: [Signature]  
Name: Robert E. Hebert  
Title: Board Chairman  
Date: 9-8-09

Attest: [Signature]  
Dianne Wilson, County Clerk

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EXHIBIT A  
DESCRIPTION OF THE RIGHT OF WAY

In preparation of Fort Bend County H channel extension to Oyster Creek, Qwest propose to directional bore 1,000', place 3-2" conduits, 2 split handholes, 2 marker post, pull in 28,900' of new fiber and pull out the existing fiber upon completion of splicing the new fiber. The existing UPRR Bridge #25.35 will be removed and the area filled, along with the installation of a proposed 1-60" CSP at approximately 9.54 feet depth. A new bridge structure will be placed at UPRR MP 25.30 with a concrete lined drainage channel approximately 20 feet depth.



**EXHIBIT B**  
**NON-BINDING ESTIMATE OF RELOCATION COSTS**

This estimate is based upon the prices of materials and labor current as of the date of said estimate. The estimate does not account for increases due to unknown and unforeseen circumstances in accomplishing the work or increases in materials or labor after the date of this estimates. Reimbursement shall not be limited by this non-binding estimate:

<b>NON-BINDING COST ESTIMATE 07/23/09</b>			
<b>Project Name</b>	UP RR Bridges 25.3 and 25.35		
<b>Project Location</b>	Sugarland, TX		
<b>Cost Detail of OSP, FOC and Splicing</b>	<b>Quantity</b>	<b>UOM</b>	<b>Estimated Cost</b>
<b>Material Cost (Qwest Supplied)</b>			
OSP Materials			0.00
Splice Materials			330.50
Fiber Optic Cable (FOC)	20,000	ft	57,430.00
<b>Total Material Cost (Qwest)</b>			<b>57,770.50</b>
<b>Shipping on Materials &amp; FOC</b>			
Shipping	890	sq	1,201.50
<b>Total Shipping Cost</b>			<b>1,201.50</b>
<b>Taxes on Materials &amp; FOC</b>			
Taxes on Materials and FOC			4,332.79
<b>Total Tax Cost</b>			<b>4,332.79</b>
<b>External Labor Costs</b>			
External OSP Construction Costs (Labor & All Remaining Materials)			86,897.08
External Splicing Costs			22,179.00
Engineering Contractor	-	ft	6,335.00
Inspection Services / Redlines	-	days	5,880.00
<b>Total External Costs</b>			<b>120,088.09</b>
<b>Other Fees including Permit &amp; Right of Way Costs</b>			
Railroad ROW fees			0.00
Private ROW fees			0.00
Miscellaneous ROW fees			0.00
Splicing- Splice s 144 count fiber on the UP RR @ 2 existing splice locations.			0.00
0			0.00
0			0.00
0			0.00
<b>Total Other Fees</b>			<b>0.00</b>
<b>Internal Labor &amp; Flagging Costs</b>			
Field Support Construction	80	hrs	6,241.80
Field Operations Construction Support	-	hrs	0.00
Field Support Engineering & Permitting	-	hrs	0.00
Field Support Splicing (from SFP)	24	hrs	1,872.48
Field Operations Splicing Support (from SFP)	16	hrs	857.80
Testing & Acceptance Support (from SFP)	-	hrs	0.00
Fiber Planning	-	hrs	0.00
Project Analysts	16	hrs	1,357.80
Optical Fiber Management (OFM)	8	hrs	678.80
CAD	16	hrs	812.00
Fiberbase	8	hrs	578.80
Fiber Leasing/Contracts	-	hrs	0.00
Railroad Flagging	20	days	16,000.00
<b>Total Internal Support &amp; Flagging Costs</b>			<b>28,498.88</b>
<b>Total Estimated Construction Cost</b>			<b>211,891.76</b>

**TOTAL ESTIMATED COST TO AGENCY IS \$211,891.76**