

LICENSE AGREEMENT FOR TELECOMMUNICATIONS FACILITIES

This License Agreement For Telecommunications Facilities ("Agreement") is made and entered into by and between the City of Camarillo, a California general law city and municipal corporation ("City") and AT&T Wireless Services of California, LLC, a Delaware limited liability company, d/b/a AT&T Wireless ("Licensee"), and is effective as of Jan. 1, 2004 ("Effective Date").

RECITALS

- A. City is the owner of certain real property ("Property") located at the corner of Cedar and Gardenview streets within the City of Camarillo, County of Ventura, State of California and more particularly described in Exhibit A, which attached and made a part of this Agreement.
- B. The Property contains existing City owned improvements including a water storage tank ("Water Tank") and telecommunications facilities ("City Facilities") (collectively "City Improvements").
- C. City and Licensee (as successor in interest to Oxnard Cellular Telephone Company) have entered into that certain License Agreement dated October 31, 1990 ("Original Agreement") under which City granted a license to use a portion of the Property to install, house, maintain and operate telecommunications equipment and facilities on the Water Tank and a portion of the Property ("Site") as depicted on Exhibit B, which is attached and made a part of this Agreement.
- D. Licensee desires to upgrade its existing equipment and install additional facilities at the Site.
- E. City is willing to allow the upgrade of the existing equipment and the installation and operation of additional facilities at the Site subject to the terms and conditions of this Agreement, which, upon execution, will supercede the Original Agreement.

AGREEMENT

- 1. Grant of License. City hereby grants a non-exclusive license ("License") to Licensee for the non-exclusive use of the Site.
- 2. Use of Site. Licensee may use the Site only for the purpose of the installation, construction, housing, operation, maintenance and repair of telecommunications equipment including radio transmitting and receiving antennas, an electronic equipment shelter and related personal property ("Facilities") as further described and delineated on Exhibit B. City acknowledges and agrees that the Facilities may be used for the transmission and reception of radio communications signals.
- 3. Term. The initial term ("Term") of the License is for 10 years commencing on the Effective Date, subject to renewal or termination as set forth in this Agreement.

4. License Fee.

- 4.1 Licensee shall annually pay to City the sum of \$18,000.00 during the Term as a fee ("License Fee") for the grant and continued existence of the License. The License Fee shall be paid in one annual installment, the first installment of which shall be paid within 15 days of the Effective Date (in the amount of \$ 15,619.85 which includes fees paid for the current year under the Original Agreement), and thereafter within 15 days following the annual anniversary of the Effective Date.
- 4.2 The License Fee shall be increased on each anniversary of the Effective Date by an amount equal to three percent (3%) of the License Fee for the previous year.
- 4.3 The License Fee will be deemed earned in full upon payment; provided, however, that Licensee will be entitled to a prorata refund of its annual License Fee in the event of any termination of this License under:
- (a) Section 9.3;
 - (b) Section 12; or
 - (c) Section 16.1(b) due to a default by City.

5. Installation and Maintenance of Facilities.

- 5.1 Licensee is authorized to install only the Facilities depicted in Exhibit B. Subject to the City's prior written approval, which shall not be unreasonably withheld, Licensee may modify, alter, replace, and upgrade the Facilities at its sole expense, provided that such modifications, alterations, replacements or upgrades do not require additional space, materially alter the exterior appearance of the Facilities, or materially affect the operation or use of the City Facilities. Subject to the City's prior written approval, which may be withheld in the City's sole discretion, Licensee may, at its sole expense, erect and maintain additional Facilities on the Site. The Facilities will remain the exclusive property of Licensee, and Licensee has the right to remove all of its Facilities following any termination of its License.
- 5.2 Licensee shall not cause any damage to the Water Tank or its coating and shall promptly restore the integrity of the Tank's painted surface as part of any applicable installation or maintenance of Facilities on the Water Tank.
- 5.3 Licensee shall at all times maintain the Site and the Facilities in a manner reasonably acceptable to the City.
- 5.4 Licensee shall not encumber or allow the encumbrance of the Site or the Property by any lien; provided, however that Licensee may mortgage or grant a security interest in this License and the Facilities as set forth in Section 18.

- 5.5 Licensee shall be responsible, at Licensee's sole expense, for compliance with all building marking and lighting requirements that the Federal Aviation Administration ("FAA") may require arising from Licensee's use of the Site.
- 5.6 Licensee may perform any repairs reasonably necessary to maintain the Facilities. Except in emergency situations, Licensee shall notify City by telephone at least one business day in advance when it plans on performing any significant maintenance or repairs of the Facilities. For the purposes of this Agreement, "significant maintenance or repairs" means the presence of work crews at the Site for more than one hour.
- 5.7 Licensee acknowledges that the Site is in a residential neighborhood with homes in close proximity to the Site. During the term of the Original Agreement, the City has received complaints from neighbors of the Property regarding noise from the operation and maintenance of the Facilities. In particular, residents have complained about noise from the air conditioning system that provides cooling for Licensee's electrical equipment shelter and about nighttime maintenance operations. Licensee shall cooperate with City and nearby residents in addressing noise and other disturbances arising from the maintenance and operation of the Facilities and shall take all commercially practicable steps to minimize disturbances to the reasonable satisfaction of City and the neighbors. Licensee further agrees that it will provide an initial response to complaints by City or complaints made directly to Licensee by any neighboring residents as soon as possible but in no event longer than 24 hours after receipt of the initial complaint. Thereafter Licensee shall use its best efforts to resolve the complaint in a timely manner.
6. Access. Licensee shall have right of access to the Site, 24 hours a day, 7 days a week as may be required for Licensee to access, operate, maintain, repair, replace, protect, or secure the Facilities and otherwise exercise the rights granted by this Agreement.
7. Utilities. Licensee has the right to install electrical utility service and will be solely responsible for and shall promptly pay all charges for the installation and use of such service. The parties acknowledge that Licensee has installed an emergency power generator at the Site that will provide 15 amp emergency power service. City has connected to this emergency power generator and may use such generator during the Term for emergency purposes at no cost to City. City acknowledges that Licensee is not a provider of commercial power service and may not be held liable for any damage suffered by City in the event of a power outage.
8. RF Compliance. Licensee agrees to comply with all regulations of the Federal Communications Commission ("FCC"), including those governing radio frequency ("RF") exposure. City shall cooperate with and permit Licensee to implement reasonable measures at the Site, including restricting public access and posting signs and markings, in order for Licensee to fulfill its RF exposure compliance obligations.
9. Radio Frequency and Electrical Interference.

- 9.1 Licensee acknowledges the existence of the City Facilities. Licensee shall not cause radio frequency or electrical interference to any of the City Facilities. Upon written notice from City to Licensee of such interference, Licensee shall take all reasonable steps to correct such interference in a timely manner. If such interference cannot be reasonably corrected within five business days from receipt of City's notice, Licensee shall cease using its Facilities, except for testing, until such time as Licensee corrects the interference.
- 9.2 In the event Licensee cannot correct the interference, City shall have the option to terminate this License without further liability hereunder, upon 30 days written notice to Licensee.
- 9.3 In the event City requires the frequencies of any of the City Facilities to be altered or makes any material change in the use of the City Improvements for which it would have reason to believe may interfere with the operation of Licensee's Facilities, City shall notify Licensee in writing at least 10 days prior to any change in frequency or material change in use. If Licensee determines that such change in frequency or use will not be compatible with Licensee's operations and City and Licensee are unable to reach a mutually acceptable resolution, Licensee's sole remedy will be to terminate this License upon 30 days written notice to City.
- 9.4 City shall not permit any licensee, invitee or agent to use any portion of the Site in a way which interferes with the operation of the Facilities. In the event City does not cause such interference to cease promptly after receipt of written notice from Licensee, the parties acknowledge that such interference may cause irreparable injury to Licensee and that Licensee shall have the right to bring an action to enjoin such interference or may terminate this License immediately upon notice to City. In no event, however, shall Licensee have a right to seek monetary damages from City as a result of such interference and any such claim is hereby waived.
10. Compliance with Laws. Licensee shall throughout the Term comply with all laws, ordinances, rules and regulations of municipal, state, and federal governmental authorities relating to the installation, maintenance, height, location, use, operation, and removal of its Facilities. Licensee, at its expense, shall be responsible for obtaining all permits or approvals required by governmental or regulatory agencies arising out of Licensee's intended use of the Site. City agrees to fully cooperate with Licensee in obtaining such permits and approvals provided that all expenses are paid by Licensee.
11. Taxes. Licensee shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, its Facilities. Licensee shall pay any increase in real property taxes levied against the Property that is directly attributable to Licensee's Facilities or its use of the Property upon submittal of proof of such increase by City.
12. Relocation of Facilities. In the event that the City Council determines that there is a need to expand, alter or change the use of the City Improvements or the Property for a public purpose, City may require Licensee to remove and relocate its Facilities at Licensee's

sole expense. City shall use reasonable efforts to provide Licensee with an alternative location for its Facilities on the Property but if such a suitable location cannot be provided, City may terminate this Agreement upon 12 months written notice to Licensee.

13. Destruction of Site or Facilities. If the Site or Facilities are destroyed or damaged so as, in Licensee's judgment, to hinder the effective use of the Facilities, Licensee may elect to terminate this License by notifying the City within 60 days of the date of damage. In such event, this License will terminate upon the date of notice to City.

14. Insurance.

14.1 During the Term, Licensee shall procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial general liability:	\$1,000,000

Commercial general liability insurance will meet or exceed the requirements of ISO-CGL Form No. CG 00 01 11 85 or 88. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies will be endorsed to name City and its officers, officials, employees, and agents as "additional insureds" under the insurance coverage and state that the insurance will be deemed "primary" such that any other insurance that may be carried by City will be excess to Licensee's insurance. The insurance must be on an "occurrence," not a "claims made," basis and must not be cancelable except upon 30 days prior written notice to City.

Licensee shall furnish City with duly authenticated Certificates of Insurance and endorsements evidencing maintenance of the insurance required under this section and such other evidence of insurance or copies of policies as may be reasonably required by City from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII."

Licensee may satisfy the insurance required under this section by obtaining appropriate endorsement to any umbrella policy of liability insurance that Licensee may maintain.

14.2 Neither party shall be liable to the other for any loss or damage caused by fire nor any of the risks enumerated in a standard "All Risk" insurance policy. In the event of any such insured loss, neither party's insurance company will have a subrogated claim against the other.

15. Indemnification.

- 15.1 Licensee shall indemnify, defend, protect and hold harmless City and its respective elected and appointed boards, officials, officers, employees, and agents (individually and collectively, "Indemnitees") from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively, "Claims"), which may arise or otherwise occur as a result of the installation, operation, maintenance, repair or removal of the Facilities or use of the Site by Licensee, its officers, employees, or agents.
- 15.2 If any action or proceeding is brought against Indemnitees by reason of any of the matters against which Licensee has agreed to indemnify Indemnitees as provided above, Licensee, upon notice from City, shall defend Indemnitees at Licensee's expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to indemnification in order to be so indemnified.
- 15.3 The insurance required to be maintained by Licensee under this Agreement is intended to ensure Licensee's obligations under this section, but the limits of such insurance do not limit the liability of Licensee.
- 15.4 The provisions of this section do not apply to Claims occurring as a result of City's sole negligence or willful misconduct.
- 15.5 The provisions of this section will survive the expiration or earlier termination of this Agreement.

16. Termination.

- 16.1 This License may be terminated under the following circumstances:
- (a) The occurrence of any of the events set forth in Sections 9.2, 9.3, 9.4, 12 or 13.
 - (b) On 30 days written notice following a default by the other party that is not cured within 30 days of receipt of written notice of the default.
 - (c) On 30 days written notice by Licensee if the Site becomes unacceptable under Licensee's design or engineering specifications for its Facilities.
 - (d) On 30 days written notice if Licensee is unable to obtain or maintain any license, permit or other governmental approval necessary for the installation or operation of its Facilities or Licensee's business.

16.2 Upon termination, Licensee shall promptly remove its Facilities, if requested to do so by City, and restore the Site to its original condition; provided, however, that Licensee will not be required to replace any trees, shrubs, grass or vegetation or to reduce any foundation to a depth greater than one foot below grade.

17. Notices.

17.1 All written notices required or permitted to be given under this Agreement will be deemed made when received by the other party at its respective address as follows:

To City:

City of Camarillo
601 Carmen Drive
Camarillo, California 93010
Attention: Director of Public Works

(Tel.) 805-388-5382

(Fax) 805-388-5318

Off Business Hours Emergency Contact

(4:00 p.m. - 7:30 a.m. Mon. through Fri., Weekends & Holidays)

Water Division Standby Person

(Tel.) 805 388-5325 (Answering Service)

To: Licensee

AT&T Wireless Lease Administration
c/o Wireless Asset Management
P.O. Box 2088
Rancho Cordova, CA 95741-2088
Re: Cell Site # OV09 – Camarillo Water Tank

with a copy to:

AT&T Wireless
Attn.: Legal Department
Re: Cell Site # OV09 – Camarillo Water Tank
8645 154th Ave, NE
Redmond, WA 98052

Off Business Hours Emergency Contact

Name Operations Control Center

(Tel.) 800 - 832 - 6662

- 17.2 Notice will be deemed effective on the date personally delivered or transmitted by facsimile. If the notice is mailed, notice will be deemed given three days after deposit of the same in the custody of the United States Postal Service, postage prepaid, for first class delivery, or upon delivery if using a major commercial courier service with tracking capabilities.
- 17.3 Any party may change its notice information by giving notice to the other party in compliance with this section.
18. Assignment.
- 18.1 Licensee may assign this License or sublicense the Site to any person or entity with an ownership interest in Licensee, any affiliate of such person or entity, any partnership in which Licensee is a partner, or any person or entity that acquires Licensee's business. Any sublicense that is entered into by Licensee will be subject to the provisions of this License. Additionally, Licensee may, upon notice to City, mortgage or grant a security interest in this License and the Facilities, and may assign this License and the Facilities to any such mortgagees or holders of a security interest including their successors or assigns (collectively "Mortgagees"). In such event, City shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. City agrees to notify Licensee and Licensee's Mortgagees simultaneously of any default by Licensee and to give Mortgagees the same right to cure any default as Licensee, except that the cure period for any Mortgagee shall not be less than ten days after receipt of the default notice. In addition to other appropriate information, any notice to City concerning mortgaging or granting a security interest in this License and the Facilities, must contain the name, address and telephone number of the Mortgagee.
- 18.2 Except as provided in Section 18.1, Licensee shall not voluntarily assign Licensee's interest in this License or in the Site, or sublicense all or any part of the Site, without first obtaining City's consent. City may not unreasonably withhold or delay any such consent. Any assignment or sublicense without City's consent will be voidable and, at City's election, will constitute a default by Licensee under this License.
19. Termination of Original Agreement. Upon the execution of this Agreement, the Original Agreement shall be deemed terminated and superceded by this Agreement.
20. General Provisions.
- 20.1 Authority to Execute. Each party represents and warrants that all necessary action has been taken by such party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations hereunder.
- 20.2 Environmental Representation. City represents that to the best of its knowledge that as of the Effective Date City has received no notice from any federal, state, or local agency having jurisdiction over the Property as to the release of any

hazardous substance at the Property. For the purposes of this Agreement, "hazardous substance" is defined as any substance or material designated as a hazardous or toxic substance, material or waste by any federal, state or local environmental law in effect that applies to the Property.

- 20.3 Binding Effect. This Agreement is binding upon the heirs, executors, administrators, successors and assigns of the parties.
- 20.4 Entire Agreement. This Agreement, including the attached Exhibits A through B, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed in this Agreement and supersedes all other agreements or understandings, whether oral or written, between Licensee and City prior to the execution of this Agreement.
- 20.5 Modification of Agreement. No amendment to or modification of this Agreement will be valid unless made in writing and approved by Licensee and by the City Council or City Manager, as applicable. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver will be void.
- 20.6 Counterparts and Facsimile Signatures. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one and same instrument. Amendments to this Agreement will be considered executed when the signature of a party is delivered by facsimile transmission. Such facsimile signature will have the same effect as an original signature.
- 20.7 Waiver. Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement will not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement will not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement.
- 20.8 Interpretation. This Agreement will be interpreted, construed and governed according to the laws of the State of California. Each party has had the opportunity to review this Agreement with legal counsel. The Agreement will be construed simply, as a whole, and in accordance with its fair meaning. It will not be interpreted strictly for or against either party.
- 20.9 Severability. If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement will not be affected and the Agreement will be read and construed without the invalid, void or unenforceable provision.
- 20.10 Venue. In the event of litigation between the parties, venue in state trial courts will be in the County of Ventura. In the event of litigation in a U.S. District Court, venue will be in the Central District of California, in Los Angeles.

20.11 Attorney's Fees, Costs and Expenses. In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding will be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

20.12 Relationship of Parties. The relationship of Licensee to City established by this Agreement is that of an independent contractor and nothing in this Agreement may be construed to constitute the parties as partners, joint venturers or participants in a joint or common undertaking.

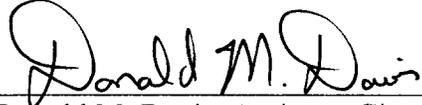
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective as of the day and year first above written.

CITY OF CAMARILLO



Jerry Bankston, City Manager

APPROVED AS TO FORM:
BRIAN A. PIERIK, CITY ATTORNEY



Donald M. Davis, Assistant City Attorney

LICENSEE

AT&T Wireless Services of California, LLC,
a Delaware limited liability company,
d/b/a AT&T Wireless

By: AT&T Wireless Services, Inc.,
a Delaware corporation,
its Member

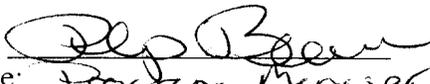
By: 
Title: Project Manager
Date: 2/16/04

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The Property is legally described as follows:

Lot 6 Block 3, Camarillo Homes Tract No. 1, in the City of Camarillo, County of Ventura, State of California, as per map thereof recorded in the Office of the County Recorder of said County in Book 17, page 60 of Maps.

EXHIBIT B

DESCRIPTION OF FACILITIES AND DEPICTION OF SITE

[Plans Attached]

Licensee's Facilities consists of an equipment shelter that houses Licensee's equipment, nine (9) panel antennas mounted to the water tank with the same tip height as that of the water tank, and three (3) microwave antennas (two flat panels and one parabolic). Licensee's Facilities are depicted in the attached plans.

SITE NUMBER AND SITE NAME

OV-09
CAMARILLO WATER TANK

SITE ADDRESS

2021 GRANDVIEW DRIVE
CAMARILLO, CA 93010



12400 PARK PLAZA DR
CERRITOS, CA 90703



CURRENT ISSUE DATE:

9-4-03

ISSUED FOR:

BUILDING PERMIT

APPROVALS

APPROVED BY:	INITIALS	DATE
LANDLORD		
LEASING		
ZONING		
RF		
E/P		
C.P.M.		

JOB NUMBER: 03058	DRAWN BY: G.C.
SITE NUMBER: OV-09	DATE: 9-4-03
CHECKED BY: D.H.	

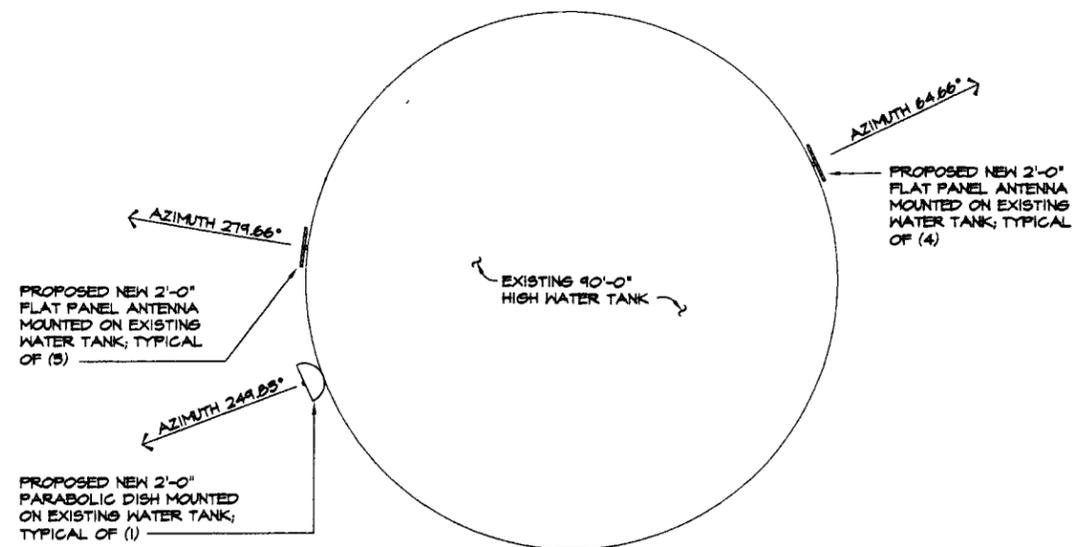
SHEET TITLE

AT&T LEASE AREA
AND
EXTERIOR ELEVATIONS

SHEET NUMBER

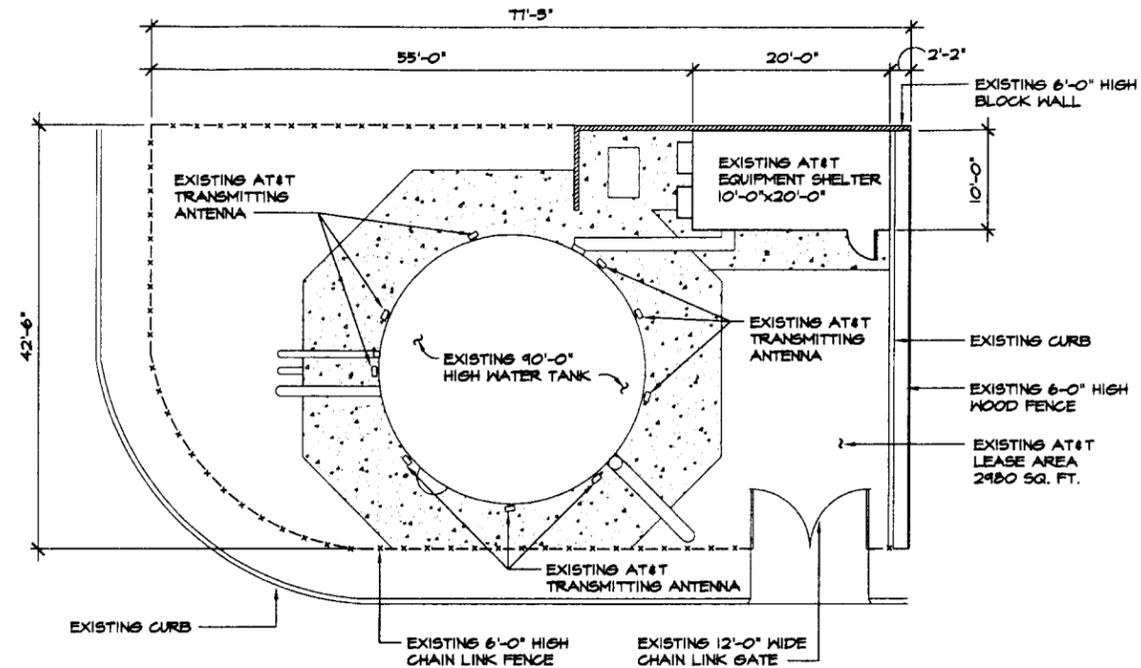
2 OF 3

A-1



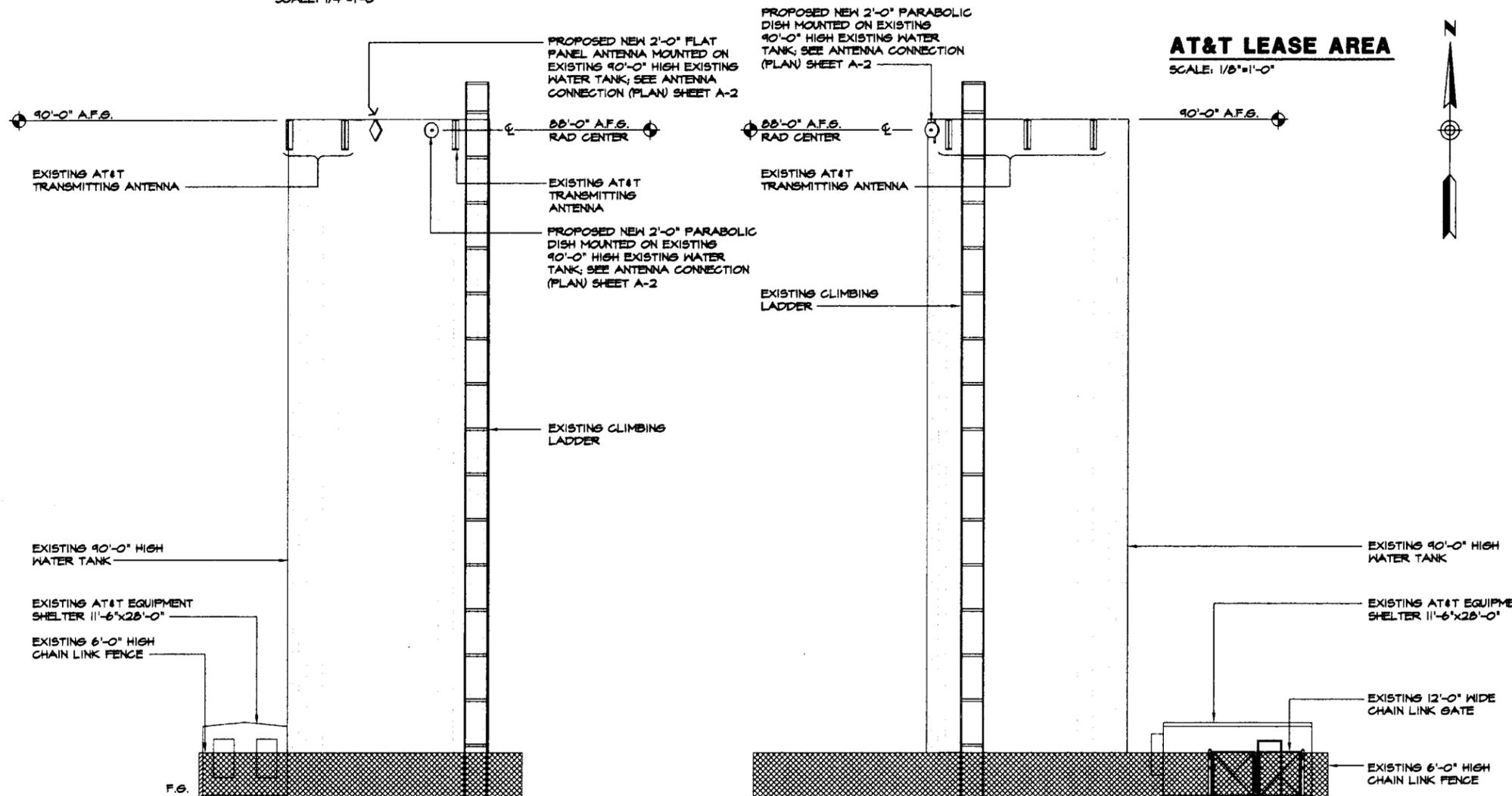
ANTENNA AZIMUTH CONFIGURATION PLAN VIEW

SCALE: 1/4"=1'-0"



AT&T LEASE AREA

SCALE: 1/8"=1'-0"



WEST ELEVATION

SCALE: 1/8"=1'-0"

SOUTH ELEVATION

SCALE: 1/8"=1'-0"

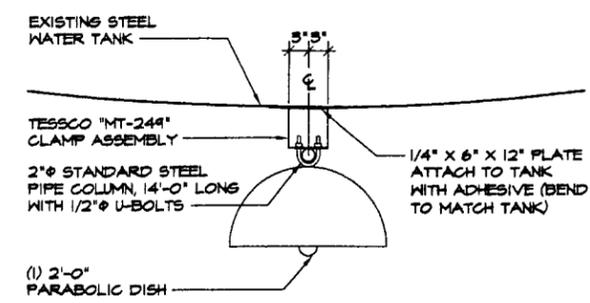




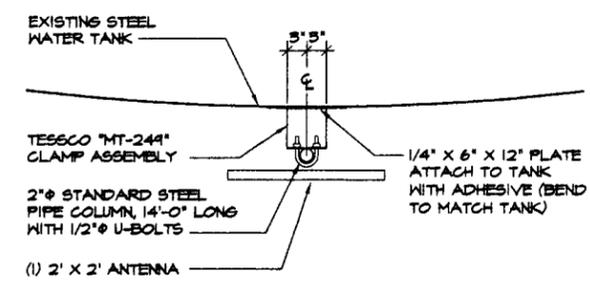
APPROVED BY:	INITIALS	DATE
LANDLORD		
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ZONING		
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E/P		
C.P.M.		

JOB NUMBER: 03058	DRAWN BY: G.C.
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CHECKED BY: D.H.	

NOTE:
SEE SHEET A-1 ANTENNA AZIMUTH
CONFIGURATION PLAN VIEW FOR
PARABOLIC AZIMUTH

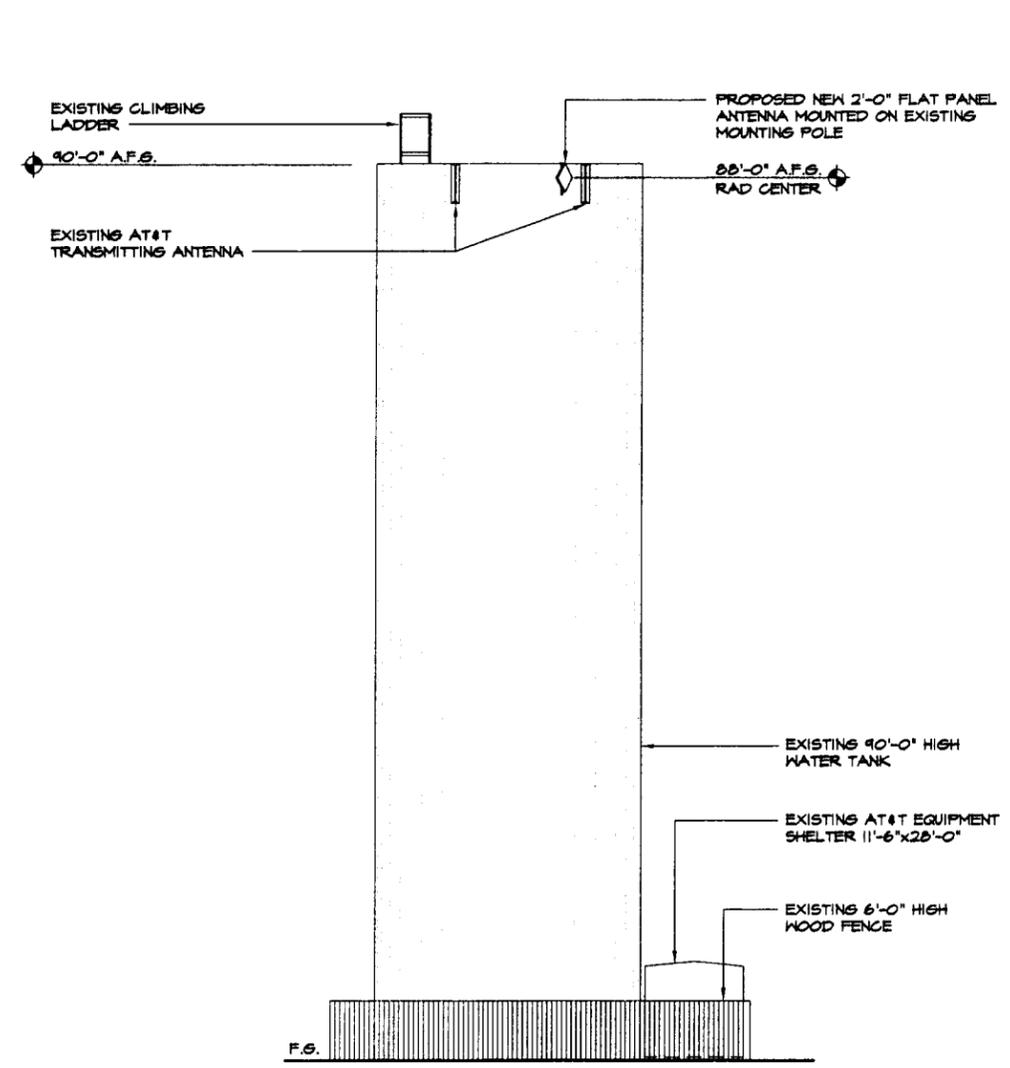


PARABOLIC DISH CONNECTION (PLAN)
SCALE: 1"=1'-0"

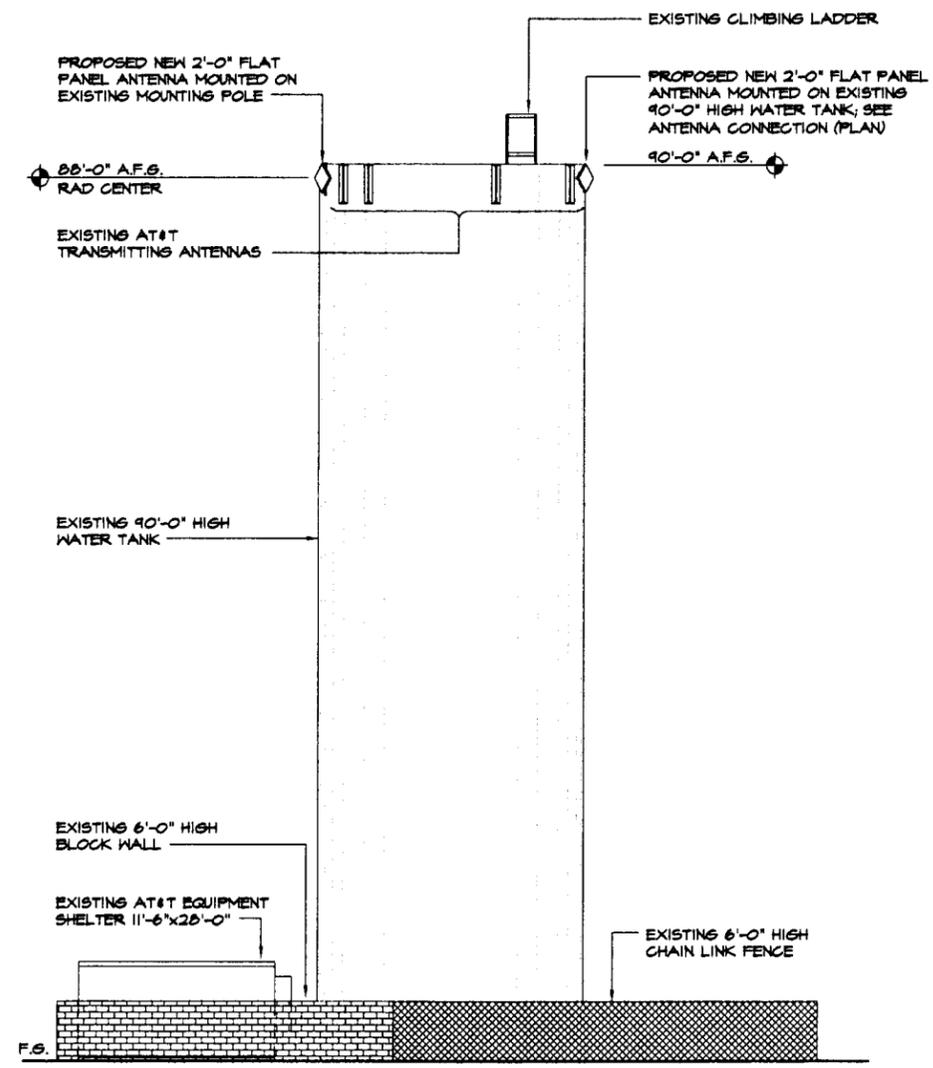


ANTENNA CONNECTION (PLAN)
SCALE: 1"=1'-0"

DIRECTIONS FOR USE:
SURFACES SHALL BE CLEAN AND FREE OF PAINT AND GREASE. TO ENSURE A FAST AND RELIABLE CURE, ACTIVATOR 750T SHOULD BE APPLIED TO ONE OF THE BOND SURFACES AND THE ADHESIVE TO THE OTHER SURFACE. THE RECOMMENDED BOND LINE GAP IS 0.1 MM. WHERE BOND GAPS ARE LARGE, (UP TO A MAXIMUM OF 0.5MM), OR FASTER CURE SPEED IS REQUIRED, ACTIVATOR SHOULD BE APPLIED TO BOTH SURFACES. PARTS SHOULD BE ASSEMBLED IMMEDIATELY, (WITHIN 15 MINUTES). EXCESS ADHESIVE CAN BE WIPED AWAY WITH ORGANIC SOLVENT. BOND SHOULD BE ALLOWED TO DEVELOP FULL STRENGTH BEFORE SUBJECTING TO ANY SERVICE LOADS.
NOTE:
ALL 2'-0" FLAT PANEL ANTENNA SHALL BE PAINTED TO MATCH EXISTING WATER TANK



EAST ELEVATION
SCALE: 1/8"=1'-0"



NORTH ELEVATION
SCALE: 1/8"=1'-0"

