

## RESOLUTION NO. 2013-111

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING THE FIRST AMENDMENT TO THE ANTENNA SITE LICENSE AGREEMENT WITH NEW CINGULAR WIRELESS PCS, LLC, FOR A TELECOMMUNICATION TOWER LOCATED AT BENICIA PARK, 7471 BERNICE AVE. (143-160-008)

WHEREAS, on December 13, 2005, the City Council adopted Resolution No. 2005-354 authorizing execution of an antenna site license agreement with New Cingular Wireless for the purpose of providing wireless telecommunication services; and

WHEREAS, on May 10, 2012 the Planning Commission adopted Planning Commission Resolution No. 2012-10 approving conditional use permit for modification of an existing cellular antenna tower at 7471 Bernice Ave. (APN143-160-008); and

WHEREAS, the May 10, 2012 Planning Commission approval requires under condition of approval number 9 that, "The existing Antenna Site License Agreement with the City of Rohnert Park shall be amended to address the proposed modifications".

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Rohnert Park that it does hereby authorize and approve a first amendment to the Antenna Site License Agreement by and between New Cingular Wireless PCS, LLC, a Delaware limited liability company, and the City of Rohnert Park, a municipal corporation, which is attached hereto as Exhibit A and incorporated by this reference.

**BE IT FURTHER RESOLVED** that the City Manager is hereby authorized and directed to take all actions to effectuate this agreement for and on behalf of the City of Rohnert Park, including execution, if necessary, in substantially similar form to the agreement attached hereto as Exhibit "A," subject to minor modifications by the City Manager or City Attorney.


**DULY AND REGULARLY ADOPTED** this 23<sup>rd</sup> day of July, 2013.



**CITY OF ROHNERT PARK**

  
Pam Stafford, Mayor

**ATTEST:**

  
JoAnne Buergler, City Clerk

Attachment – Exhibit A

AHANOTU: AYE BELFORTE: ABSENT MACKENZIE: AYE CALLINAN: AYE STAFFORD: AYE  
AYES: ( 4 ) NOES: ( 0 ) ABSENT: ( 1 ) ABSTAIN: ( 0 )

Cell Site #: CCL00356 Benicia Park  
Market: FSA 8 San Francisco Bay Area  
Fixed Asset #10072822  
Cell Site Property Address: 7471 Bernice Ave., Rohnert Park, CA 94928

## FIRST AMENDMENT TO ANTENNA SITE LICENSE AGREEMENT

THIS FIRST AMENDMENT TO ANTENNA SITE LICENSE AGREEMENT (the "Amendment"), dated as of the later of the signature dates below (the "Amendment Effective Date"), is by and between CITY OF ROHNERT PARK; having a mailing address of 130 Avram Avenue, Rohnert Park, CA 94928 (hereinafter referred to as "Licensor") and NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company; having a mailing address of 575 Morosgo Drive NE, Suite 13-F West Tower, Atlanta, GA 30324 (hereinafter referred to as "Licensee").

WHEREAS, Licensor and Licensee entered into an Antenna Site License Agreement dated December 13, 2005 (the "Agreement"), whereby Licensor licensed to Licensee certain Premises, therein described, that are a portion of the Property located at 7471 Bernice Avenue, Rohnert Park, CA 94928 (the "Premises"); and

WHEREAS, Licensor and Licensee desire to amend the Agreement to allow for the installation of new LTE technology antennas and accessory components by replacing the description of the Premises contained in the original exhibit marked Exhibit B with a new revised Exhibit B-1 attached hereto and approved by both parties; and

WHEREAS, Licensor and Licensee desire to adjust the License Fee in conjunction with the modifications to the Agreement contained herein; and

WHEREAS, Landlord and Tenant desire to amend the Agreement to permit Tenant to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including but not limited to emergency 911 communication services; and

WHEREAS, Licensor and Licensee desire to amend the notice provisions of the Agreement; and

WHEREAS, Licensor and Licensee presently desire to amend, modify and supplement the Agreement subject to the terms and conditions set forth below.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor and Licensee agree as follows:

1. **Replacement of Exhibits.** In Section 1 Premises of the Agreement, the parties hereby agree that Exhibit B to the Agreement is hereby deleted in its entirety and is replaced and superseded by Exhibit B-1 attached hereto and incorporated herein. All references in the Agreement to Exhibit B or the Premises shall be deemed to reference Exhibit B-1. Exhibit C is hereby amended to add six (6) antennas (approximate dimensions each: 51"h x 12"w x 6"d) for a total of twelve (12) antennas and to add six (6) RRU's (dimensions each: up to 17"w x 18"h) all as further depicted on Exhibit B-1.

2. **License To Use.** Section 2(a) is hereby revised to reflect said increase in the number of antennas from six (6) to a total of twelve (12), and said addition of six RRU's (dimensions each: up to 17"w x 18"h) all as further described on the attached Exhibit B-1.

3. **License Fee.** Section 5, Payments, of the Agreement is hereby amended by the addition of the following: **PAYMENTS.** Commencing on the date of Licensee's building permits for construction of the modifications set forth in this Amendment (the "License Fee Adjustment Date"), the License Fee shall be increased by One Thousand Three Hundred and No/100 Dollars (\$1,300.00) per month, subject to further adjustments as provided in the Agreement and due to Licensor on the same date as the then current License Fee is due. The License Fee shall be prorated for any partial month. All License Fee checks shall be made payable to City of Rohnert Park and mailed to the address given in Paragraph 1 above unless and until otherwise instructed in writing by Licensor.

4. **Emergency 911 Service.** In the future, without the payment of additional License Fees and at a location mutually acceptable to Licensor and Licensee within the Premises, Licensor agrees that Licensee may add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including but not limited to emergency 911 communication services. Licensor and Licensee hereby agree that additional License Fees shall be due to Licensor for the use of any new or existing equipment or facilities that require the use of space outside the existing Premises.

5. **Notices.** Section 28 of the Agreement is hereby deleted in its entirety and replaced with the following: **NOTICES.** All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

**If to Licensor:**

City of Rohnert Park  
Attn: Director of Administrative Services  
130 Avram Avenue  
Rohnert Park, CA 94928

**If to Licensee:**

New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration  
Re: Cell Site #: CCL00356; Cell Site Name: Benicia Park (CA)  
Fixed Asset No: 10072822  
575 Morosgo Drive NE  
Suite 13-F, West Tower  
Atlanta, GA 30324

With a required copy of such notice sent to AT&T Legal at:  
New Cingular Wireless PCS, LLC  
AT&T Legal Department – Network Operations  
Attn: Network Counsel  
Re: Cell Site #: CCL00356; Cell Site Name: Benicia Park (CA)  
Fixed Asset No: 10072822  
208 S. Akard Street  
Dallas, Texas, 75202-4206

**LICENSOR: The City of Rohnert Park**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Address for Notices: \_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

**ATTEST:**

\_\_\_\_\_  
JoAnne Buergler, City Clerk

A copy sent to the Legal Department is an administrative step which alone does not constitute legal notice. Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

6. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Agreement and this Amendment, the terms of this Amendment shall control. Except as expressly set forth in this Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this Amendment.

7. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this Amendment on the dates set forth below.

**LICENSOR:**  
CITY OF ROHNERT PARK

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**LICENSEE:**  
NEW CINGULAR WIRELESS PCS, LLC  
a Delaware limited liability company  
By: AT&T Mobility Corporation  
Its: Manager

By:  \_\_\_\_\_

Print Name: Michael Guibord

Title: Director  
Construction & Engineering

Date: 6/25/13

STATE OF CALIFORNIA                     )  
  )                     SS.  
COUNTY OF \_\_\_\_\_ )



SCALE NOTE:  
IF DIMENSIONS SHOWN ON PLAN OR NOT  
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OR ENLARGEMENT FROM ORIGINAL PLANS.

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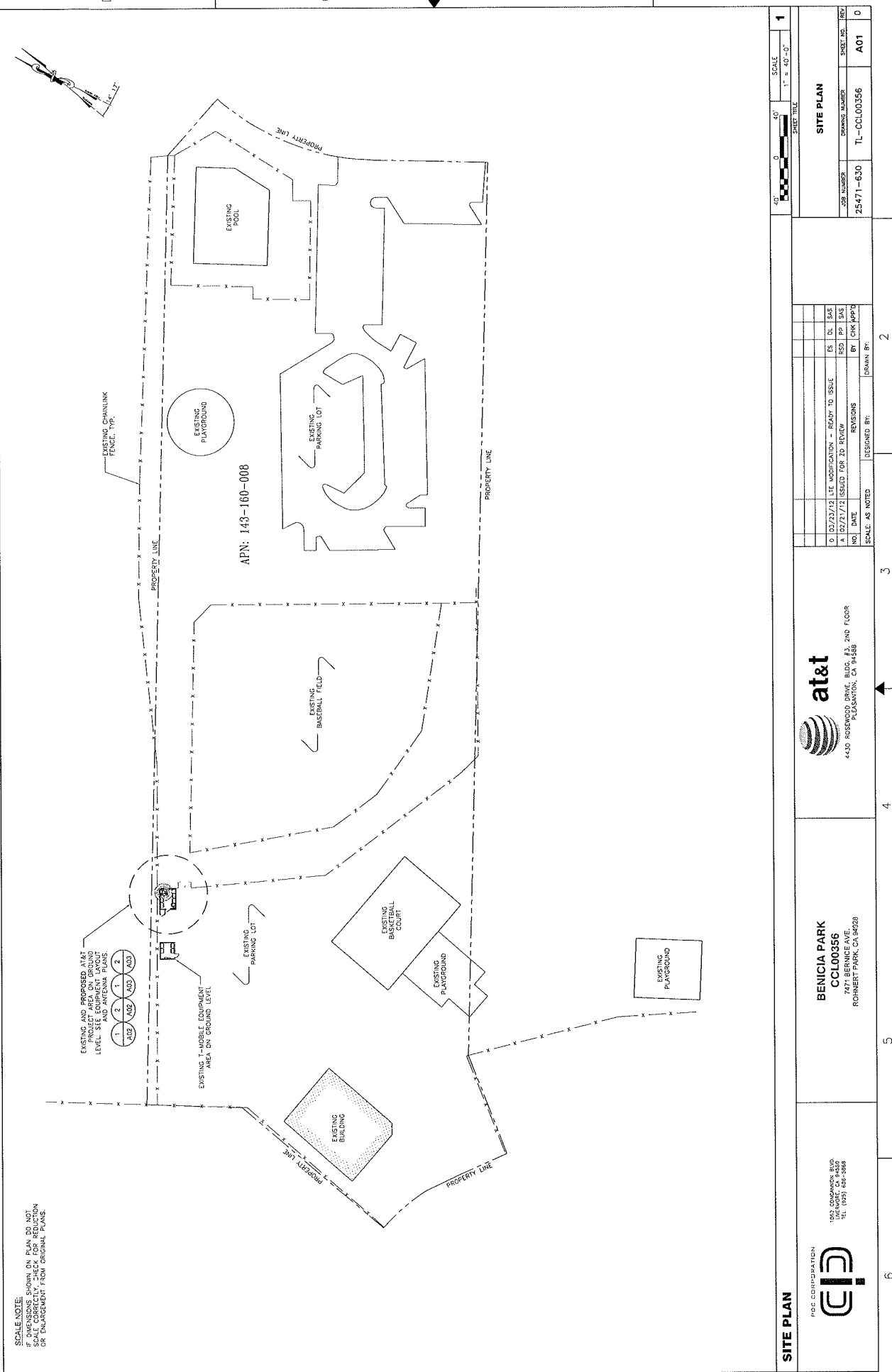
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SITE PLAN



1001 CRENSHAW BLVD  
LOS ANGELES, CA 90008  
TEL: (213) 695-5888

**BENICIA PARK**  
CCL00356  
7471 BERNICE AVE.  
ROBERT PARK, CA 94028



4430 ROSEWOOD DRIVE, BLDG. #3, 2ND FLOOR  
PASADENA, CA 91106

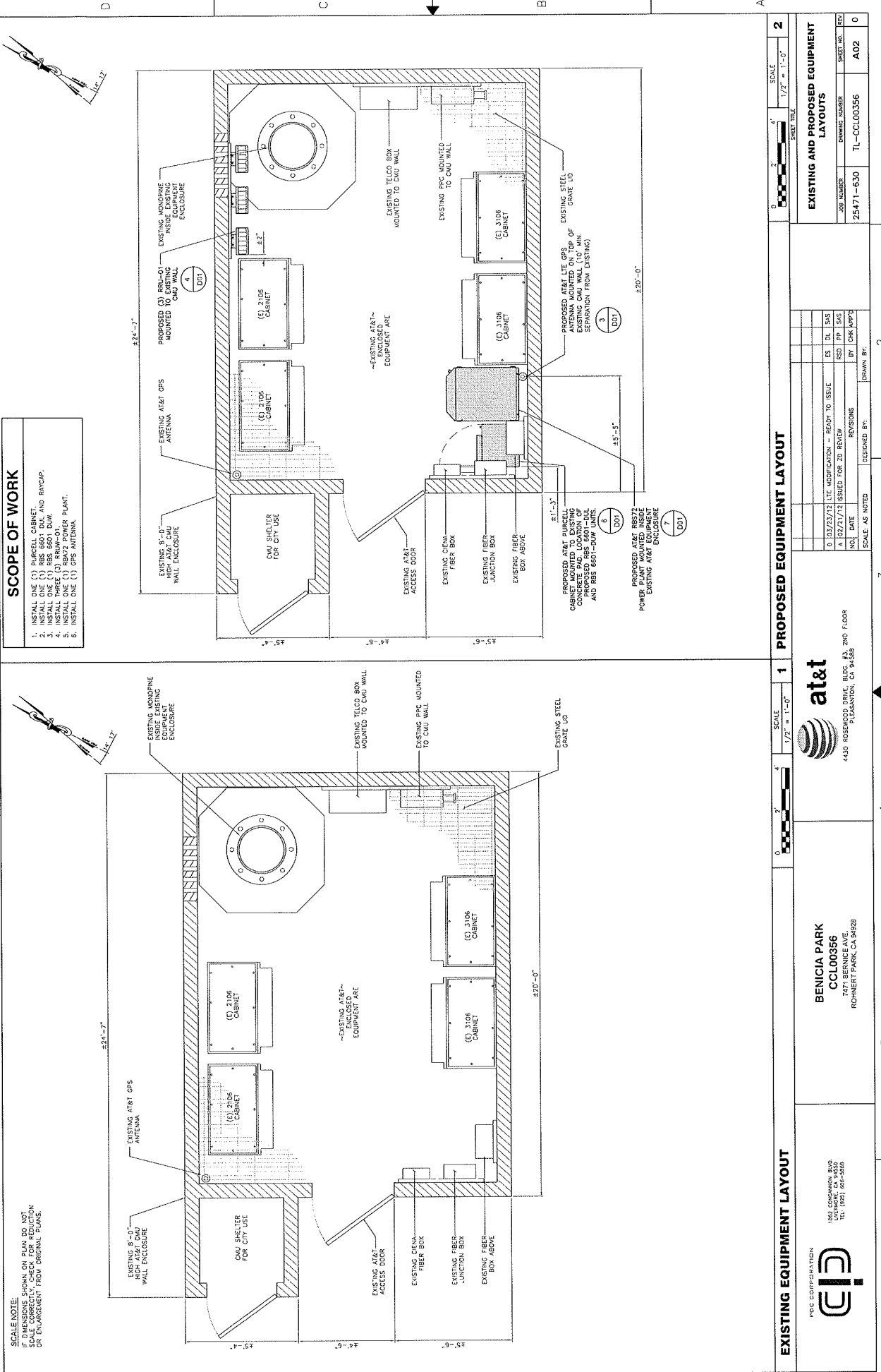
NO.	DATE	REVISIONS	DESIGNED BY	CHECKED BY
1	01/27/11	ISSUED FOR 2D REVIEW	RSJ	RP
2	02/07/11	ISSUED FOR 3D REVIEW	RSJ	RP
3	02/23/11	ISSUED FOR 3D REVIEW	RSJ	RP

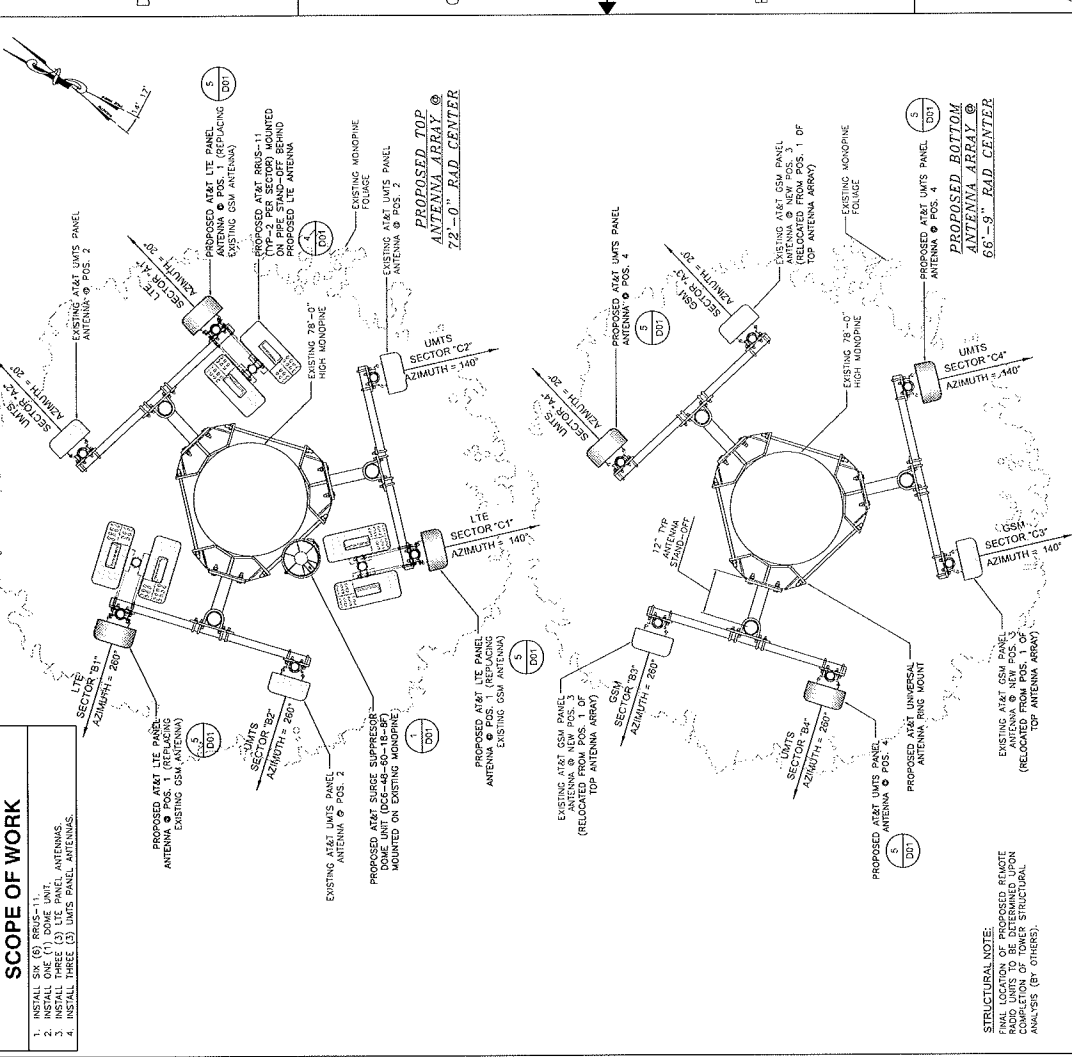
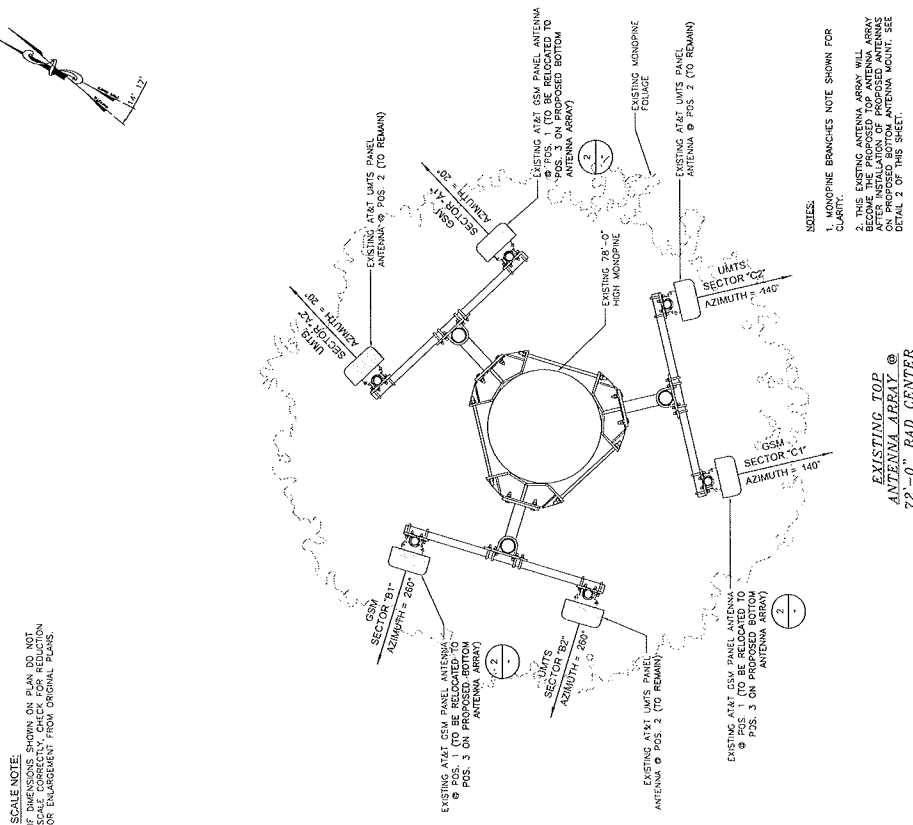
SITE PLAN




JOB NUMBER	25471-630	DRAWING NUMBER	TL-00000356	SHEET NO.	A01	TOTAL SHEETS	0
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SCALE	1" = 40'-0"	SHEET TITLE	1
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<div>FOR CORPORATION</div> <div><div>1062 COWANBOY BLVD. LYNDHURST, CA 94025 TEL: (415) 704-0664</div></div>		<div><div><b>BENICIA PARK</b> <b>CCLO0356</b> 7411 BENICIA AVE. RICHMOND PARK, CA 94828</div></div>		<div><div>4400 ROSENTHAL PKWY. SUITE 13, 2ND FLOOR P.O. BOX 100 PULGANTON, CA 94838</div></div>		<div><p><b>1 PROPOSED ANTENNA PLANS</b></p><p>SCALE: 3/4" = 1'-0"</p><p>1" 0' 1' 2'</p></div>		<div><p><b>2 EXISTING ANTENNA PLANS</b></p><p>SCALE: 3/4" = 1'-0"</p><p>1" 0' 1' 2'</p></div>	
<div><p><b>EXISTING ANTENNA PLAN</b></p></div>		<div><p><b>1 PROPOSED ANTENNA PLANS</b></p></div>		<div><p><b>2 EXISTING ANTENNA PLANS</b></p></div>					



