

The attached Agreement is a proposed draft presented by AT&T. The Terms and Conditions and Exhibits herein are subject to change and are offered for a period of no longer than Thirty (30) days (March 13th, 2008) unless otherwise indicated by AT&T. All information presented herein is intended for use only by AT&T and Customers, as defined below.

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April (JCE) [Signature] 4/8/2008

## RADIO FREQUENCY ENHANCEMENT AGREEMENT

This Radio Frequency Enhancement Agreement ("Agreement") is entered into by and between **AT&T Mobility National Accounts LLC** ("AT&T") on behalf of its affiliates doing business as 'AT&T Wireless' ("Carriers"), and **Baldwin County Commission** ("Customer"). It is effective as of the last date signed by the parties (the "Effective Date").

AT&T provides Customer with wireless radio telecommunications services ("**Service**"). This Agreement describes the terms and conditions under which AT&T will provide equipment to Customer, to be installed on Customer's premises located at 23100 McAuliffe Drive, Robertsedale, AL 36567 ("**Premises**"), in order to provide enhanced radio frequency ("**RF**") coverage from AT&T's wireless network.

### 1. Definitions.

**1.1 "Antenna System"** means antennas mounted on the interior and exterior of a building that provide enhanced radio coverage to the interior of the building, and the cabling and distribution systems required to connect the antennas to the Electronics.

**1.2 "Electronics"** means all electronic equipment within the antenna system.

**1.3 "Frequency" or "Frequencies"** means the frequencies for which AT&T holds a license from the Federal Communications Commission ("FCC") for use in providing wireless telecommunication services and features.

**1.4 "Interference"** means undesired RF energy that can degrade the quality of service on licensed frequencies, which may result in distorted conversations, dropped calls, and blocked calls for AT&T or other carriers.

**1.5 "Network"** means the infrastructure that is used to provide wireless radio telecommunications services on AT&T's Frequencies.

**1.6 "System"** means a customized wireless radio telecommunications system comprised of the Repeater, Electronics, Antenna System, any related transmission facilities and related equipment and cabling that will be installed for use on the Premises, as set forth in Exhibit A attached hereto and incorporated herein by this reference.

**1.7 "Repeater"** means the AT&T-owned Repeater(s) and any related equipment.

**1.8 "Term"** means the initial term of this Agreement and any renewal term.

### 2. System Design and Operation.

**2.1. Installation.** AT&T or its designee will install the System on the Premises. Customer shall pay \$5,400.00 toward the total cost of the System and Installation.

**2.2. Maintenance.** AT&T will maintain the System at AT&T's expense.

**2.3. System Modification and Capacity.** Customer understands and agrees that the System impacts AT&T's Network capacity, and that the System may not provide coverage for 100% of the Premises. AT&T may, in its sole discretion, modify the System shutdown or disable components or make any other changes it deems necessary to the System. AT&T may from time to time at its sole discretion, modify, upgrade or enhance the System, and Customer agrees that AT&T may make such upgrades, modifications or enhancements. Customer acknowledges that such upgrades, modifications or enhancements may require additional space and consume additional power. Customer may request that AT&T expand, modify or enhance the System, and if AT&T agrees to such modifications, enhancements or upgrades, they will be at Customer's expense, and must be approved in writing by AT&T.

**2.4. System Outage.** AT&T will not be responsible for losses or damages of any kind caused by planned or unplanned outages of the System, whether caused by, but not limited to, failures of the System, power failures, Customer's acts or omissions, failure of the equipment, or any outage associated with compliance with any existing or yet to be enacted law, building code requirement, or with any other regulatory mandate.

**2.5. Ownership.** FCC regulations require AT&T to maintain sole control over any transmitting device that operates within AT&T's assigned Frequencies. The parties agree that: (a) Customer does not have, and will not acquire through this Agreement, any proprietary or ownership rights or interest in the System, AT&T's Network, AT&T's cell sites and related components, or the Frequencies, or the public revenues associated with the Service or the System, and (b) the System, and all components, are and will remain the property of AT&T and AT&T or its designee will have the right to install, operate, maintain and remove the System in its sole discretion at AT&T's expense. AT&T has no proprietary or ownership rights in the Premises or Customer's facilities, including Customer cabling, used as part of the System installation.

**2.6. Customer Responsibilities.** Customer represents, warrants and agrees that it: (a) will obtain all required Premises approvals to allow AT&T or its designees to install, maintain, repair, replace, remove or operate the System on the Premises prior to Installation, (b) will provide to AT&T, at no charge or cost to AT&T, space in and on the Premises that is sufficient, climate controlled, and in such a condition, that will allow AT&T or its designees to install, maintain and operate the System, (c) will ensure that all modifications, handling, maintenance and repair of the System is restricted solely to AT&T and its designees, (d) after acceptance of System Installation, will not change its Premises or its use of the Premises in any way that interferes with the System or AT&T's Network, (e) will provide to the System, at Customer's sole cost, all required commercial power.

**2.7. Connectivity.** Customer understands and agrees that the Repeater may require connectivity to the AT&T Network via an analog telephone line connecting to the modem. Customer will supply and pay for such analog telephone line

**2.8. AT&T System Access.** Customer shall provide AT&T or its designees with an authorized Customer representative to notify for gaining access to the System twenty-four hours per day, seven days per week to complete any necessary maintenance and repair work, subject to Customer's reasonable security procedures and protocol. Any planned maintenance shall occur with reasonable prior notice to Customer at a mutually agreed upon time..

### **3. Monitoring/Unauthorized Usage.**

**3.1 Monitoring for Interference.** AT&T has the right to: (a) monitor the operation of the System 24 hours per day seven days per week in order to determine System performance; and (b) ensure that the System does not cause Interference to other AT&T users, AT&T's Network, transmission facilities or other equipment. AT&T will determine whether the System is causing such Interference, and may, at its option, disable or shut down the System until AT&T is able to determine the cause of the Interference. To the extent the Interference cannot be eliminated, AT&T will permanently shut down and remove the System.

**3.2 Unauthorized Usage.** Customer shall not use any part of the System to broadcast AT&T's Frequencies without AT&T's consent.

**4. No Resale.** Resale of the Service is not permitted under the terms of this Agreement and requires separate contractual arrangements with AT&T and applicable regulatory approvals.

5. **Term.** This Agreement shall begin on the Effective Date and continue for three (3) years ("Initial Term"). After the Initial Term this Agreement will automatically renew for additional one (1) year periods until terminated by either party upon ninety (90) days written notice.

6. **Termination.**

6.1 **By Breach.** If either party fails to perform or observe (or to commence and diligently prosecute activities that will result in performance or observance of) any material term or condition of this Agreement, including failure to use the System, within thirty (30) days after receipt of written notice from the other party of such failure, that party shall be in default and the non-breaching party may, in addition to any other remedies available at law or in equity, terminate this Agreement.

6.2 **Equipment Removal Fee.** Upon termination prior to the end of the Initial Term by breach of Customer, Customer shall pay to AT&T an Equipment Removal Fee of \$5,000. After the end of the Initial Term no equipment removal fees shall apply.

6.3 **Bankruptcy.** Either party may terminate this Agreement should the other party make a general assignment for the benefit of its creditors, if a receiver is appointed for the other party due to its insolvency, if the other party initiates a voluntary bankruptcy proceeding or if the other party's creditors initiate a bankruptcy proceeding against that party and such proceeding is continuing and not dismissed or discharged for sixty (60) days.

6.4 **Equipment Removal.** Upon termination of this Agreement for any reason, AT&T will have the right, upon reasonable notice to Customer, to enter Customer's Premises and remove all AT&T-owned equipment.

6.5 **Termination due to Regulatory Change.** AT&T may terminate this Agreement, or any part of this Agreement, immediately and without penalty, upon written notice to Customer if the FCC, the respective State Public Utilities Commission or any other regulatory agency or legislative body promulgates any rule, regulation or order that in effect or application prohibits or adversely affects AT&T's ability to fulfill its obligations hereunder.

7. **No Warranty.** AT&T MAKES NO EXPRESS WARRANTY REGARDING THE SYSTEM, ITS COMPONENTS OR OTHER EQUIPMENT AND DISCLAIMS ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. **Limitation of Liability.**

8.1 **Product and Service Failures.** AT&T is not liable for any losses or damages that arise out of or in connection with the products or services to be provided under this Agreement, whether the claim is in tort or otherwise, including but not limited to injuries to persons or property arising from the other party's use of the System..

8.2 **Consequential Damages** Neither party is liable for any special, punitive, indirect, incidental or consequential damages, including lost profits.

9. **Indemnification.** Each party shall indemnify, defend and hold harmless the other party and its parent company, affiliates, employees, directors, officers, and agents from and against all claims, demands, actions, causes of actions, damages, liabilities, losses, and expenses (including reasonable attorney's fees) incurred as a result of claims for damage to property and/or personal injuries (including death) arising out of the negligence or willful act or omission of the indemnifying party.

10. **Force Majeure.** AT&T shall have no liability for damages or delays due to fire, explosion, lightning, pest damage, power surge or failures, water, acts of God, the elements, war, civil disturbances, acts of civil or

military authorities or the public enemy, inability to secure raw materials, products, or transportation facilities, fuel or energy shortages, acts or omissions of other communications carriers, suppliers or subcontractors, or other causes beyond AT&T's control, whether or not similar to the foregoing.

- 11. **Notice.** All notices and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly made and received when personally served or delivered by facsimile with a confirmation report, or when mailed by overnight delivery service or certified mail, postage prepaid, return receipt requested, to the addresses indicated below. The parties may change the addresses on thirty (30) days' written notice.

If to AT&T:  
AT&T Mobility  
National Accounts LLC  
8645 - 154<sup>th</sup> Avenue NE  
Redmond, WA 98052  
Attn: OD&N

With a copy to:  
AT&T Mobility National Accounts LLC  
7277 164 Avenue NE  
Redmond, WA 98052  
Facsimile Number: 425-580-5944.  
Attn: Legal Dept

If to Customer:

With a copy to:


Baldwin County Commission  
312 Courthouse Sq. St 12  
Bay Minette, AL  
Attn: Chairman

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- 12. **Governing Law.** The laws of the State of Alabama shall govern all questions with respect to this Agreement. The prevailing party in any dispute to enforce or interpret this Agreement shall be entitled to recover its reasonable costs and attorneys' fees.
- 13. **Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other and such consent shall not be unreasonably withheld. However, either party may, without the other party's consent, assign this Agreement to an affiliate or to any entity that acquires substantially all of the party's business or stock and AT&T may assign its right to receive payments hereunder. Subject to the foregoing, this Agreement shall be binding upon the assignees of the respective parties.
- 14. **Third Party Beneficiaries.** Other than as expressly set forth herein, this Agreement shall not be deemed to provide any third parties with any remedy, claim, right of action, or other right.
- 15. **Severability.** If any portion of this Agreement is found to be unenforceable, the remaining portions shall remain in effect and the parties will begin negotiations for a replacement of the invalid or unenforceable portion.
- 16. **Survival.** The terms and provisions of this Agreement that by their nature require performance by either party after the termination or expiration of this Agreement, including, but not limited to, limitations of liability and exclusions of damages, shall be and remain enforceable notwithstanding such termination or expiration of this Agreement for any reason whatsoever.
- 17. **Legal Relationship.** This Agreement does not render either party the agent or legal representative of the other party and does not create a partnership or joint venture between AT&T and Customer. Neither party shall have any authority to agree for or bind the other party in any manner whatsoever.

18. **Waiver.** No waiver of any of the provisions of this Agreement shall be binding unless it is in writing and signed by both parties. The failure of either party to insist on the strict enforcement of any provision of this Agreement shall not constitute a waiver of any provision.
19. **Publicity.** Neither party shall issue a news release, public announcement, advertisement, or other form of publicity concerning the substance of this Agreement without obtaining the prior written approval of the other party, which may be withheld in the other party's sole discretion.
20. **Entire Agreement.** This Agreement set forth the entire agreement between the parties with respect to the subject matter herein and supersedes all prior agreements, proposals, representations, statements, or understandings, whether written or oral. No change, modification or waiver of any of the terms of this Agreement shall be binding unless made in writing signed by both parties.

**AT&T Mobility National Accounts LLC**

By   
Printed Name CATHELEEN M PRYOR  
Title VP, CONTRACTS  
Date 4/2/08

**Baldwin County Commission**

By   
Printed Name Frank Buet, Jr.  
Title Chairman  
Date 4-3-08

**Exhibit A**

System Design



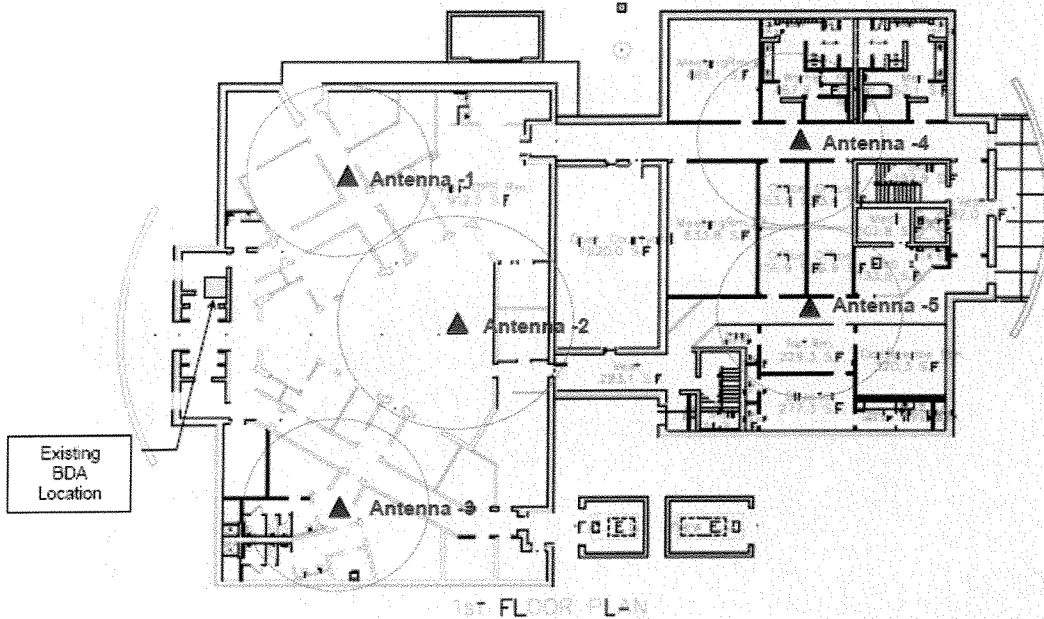
Regards,

*Chris By-*

Signal Access, LLC

Proposed design.

### Baldwin County Emergency Operations Center - First Floor Antenna Layout





Baldwin County Emergency Operations Center – Second Floor Antenna Layout

