



RESOLUTION No. 15-449

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

APPROVAL OF UTILITY AGREEMENT AND JOINT USE AGREEMENT WITH AT&T CALIFORNIA FOR UTILITY RELOCATIONS FOR THE NEWTOWN ROAD CLASS II/III BICYCLE CORRIDOR PROJECT

WHEREAS, the Department of Public Works proposes a project to widen shoulders to provide class II bike lanes to enhance bicycle safety and improve sight visibility, as well as improve roadway drainage along Newtown Road between SR 49 and Champion Road; and

WHEREAS, the Department requests approval of a Utility Agreement in the amount not to exceed \$98,488.08; this amount represents an estimated relocation cost of \$78,790.46, plus a 25% contingency; and

WHEREAS, this relocation requires a Joint Use Agreement to allow AT&T to install utilities within County Right-of-Way; and

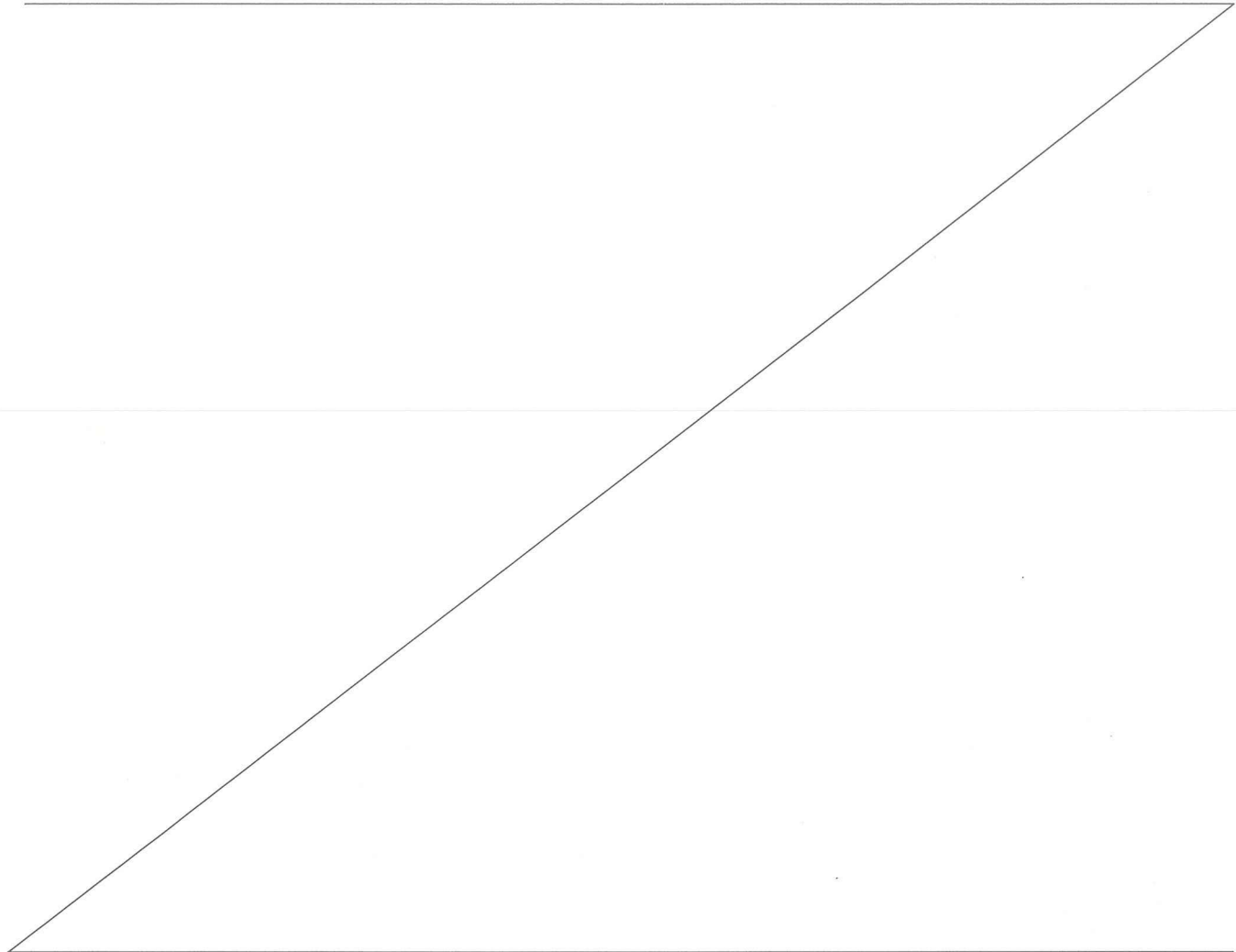
WHEREAS, per Resolution No. 12-114, this project was determined to be categorically exempt from the provisions of the California Environmental Quality Act, under section 15301(c) of the Public Resource Code; and

WHEREAS, construction of the project is scheduled for 2016; and

WHEREAS, funding for this project is included in the Fiscal Year 2015/16 budget for Roads Capital Improvements and is available in budget codes 1114-30154-702-1000/540711.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Nevada County Board of Supervisors:

1. Approves and authorizes the Chair of the Board of Supervisors to execute on behalf of Nevada County the Utility Agreement with AT&T California in the amount not to exceed \$98,488.08; this amount represents an estimated relocation cost of \$78,790.46, plus a 25% contingency, as attached hereto as Exhibit "A."
2. Approves and authorizes the Chair of the Board of Supervisors to execute on behalf of Nevada County the Joint Use Agreement with AT&T California, as attached hereto as Exhibit "B."



PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 22nd day of September, 2015, by the following vote of said Board:

Ayes: Supervisors Nathan H. Beason, Edward Scofield, Dan Miller, Hank Weston and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By:  _____

 _____
Edward C. Scofield, Chair

9/22/2015 cc: DPW*
AC*(hold)

10/27/2015 cc: DPW*
AC*(release)

Dist	Co	Rte	P.M.	EA
03	Nevada	NA	Newtown Rd SR49 3/4mi south	03-929298L
Federal Aid No.: CMLL 5917-070				
Owners File: AT&T				
Federal Participation: On the Project <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No On the Utilities <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
Owner: AT&T				
Job No. A006 MCR			JOB # A006 MCR	

UTILITY AGREEMENT NO. 2

DATE: Sept. 22, 2015

The County of Nevada acting by and through the Department of Public Works, hereinafter called "COUNTY", proposes a project that will address rural road safety enhancements of Newtown Road, by improving shoulder and travel lane widths, providing a Class II/III bike lane, curve realignment and roadway drainage near Nevada City, in Nevada County.

and

Pacific Bell Telephone Company, a California Corporation dba AT&T California (AT&T), hereinafter called "OWNER", lawfully owns and maintains telecommunication facilities within the limits of COUNTY'S project which require adjustment of a portion of those facilities to accommodate COUNTY's project.

It is hereby mutually agreed that:

I. WORK TO BE DONE:

In accordance with Notice to Owner No. 2, dated September ²²~~8~~, 2015 OWNER shall relocate overhead power facilities (poles and lines) as proposed in relocation service plan sheet 1 thru. 6 as applicable. All work shall be performed substantially in accordance with OWNER's Approved Plan A006MCR dated July, 2015 consisting of six (6) sheets, a copy of which is on file in the Department of Public Works at 950 Maidu Ave, Nevada City, CA 95959. Deviations from the OWNER's plan described above initiated by either the COUNTY or the OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by the COUNTY and acknowledged by the OWNER, will constitute an approved revision of the OWNER's plan described above and are hereby made a part hereof. No work under said deviation shall commence prior to receipt by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an amendment to this Agreement in addition to the revised Notice to Owner.

II LIABILITY FOR WORK:

The existing facilities described in Section I. above will be relocated at 78% COUNTY and 22% OWNER expense in accordance with the following:

UTILITY AGREEMENT NO. 12

11 poles are located in their present position pursuant to prescriptive rights prior and superior to those of the COUNTY and will be relocated at COUNTY's expense;

3 poles are located within the COUNTY's right of way and will be relocated at OWNER's expense under the provisions of Section (680) of the Streets and Highways Code.

COUNTY's liability is calculated as $11/14 * 100 = 78\%$

Total COUNTY estimated expense for Relocation: \$78,790.46

III PERFORMANCE OF WORK:

The OWNER agrees to perform the herein-described work with its own forces or to cause the herein-described work to be performed by OWNER's contractor, employed by written contract on a continuing basis to perform work of this type, and to provide and furnish all necessary labor, materials, tools and equipment required therefore, and to prosecute said work diligently to completion.

IV PAYMENT FOR WORK:

The COUNTY shall pay its share of the actual cost of the herein described work within 90 days after receipt of OWNER's itemized bill in quintuplicate, signed by a responsible official of OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual cost and expense incurred and charged or allocated to said work in accordance with the uniform system of accounts prescribed for OWNER by the California Public Utilities Commission (PUC) or Federal Communications Commission (FCC), whichever is applicable.

It is understood and agreed that the COUNTY will not pay for any betterment or increase in capacity of OWNER'S facilities in the new location and that OWNER shall give credit to the COUNTY for all accrued depreciation on the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills not to exceed the amount of this Agreement may be made under the terms of this Agreement. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by COUNTY of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the COUNTY within 180 days after the completion of the work described in Section I above. If the COUNTY has not received a final bill within 180 days after notification of completion of OWNER's work described in Section I of this Agreement, and COUNTY has delivered to OWNER fully executed Director's Deeds, Consents to Common Use or

Joint Use Agreements as required for OWNER's facilities; COUNTY will provide written notification to OWNER of its intent to close its file within 30 days

and OWNER hereby acknowledges, to the extent allowed by law that all remaining costs will be deemed to have been abandoned.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the COUNTY shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by COUNTY. Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation.

In any event if the final bill exceeds 125% of the estimated cost of this Agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section 1 of this Agreement shall have the prior concurrence of the COUNTY.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and or Federal auditors. OWNER agrees to comply with Contract Cost Principles and procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Part 645 and/or 18 CFR, Chapter 1, Part 101, 201, et al. If a subsequent State and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse COUNTY upon receipt of COUNTY billing.

V. GENERAL CONDITIONS

All costs accrued by OWNER as a result of COUNTY's request of January 15, 2015 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

If COUNTY'S project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, COUNTY will notify OWNER in writing and COUNTY reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

OWNER shall submit a Notice of Completion to the COUNTY within 30 days of the completion of the work described herein.

Where OWNER has prior rights in areas which will be within the COUNTY road right of way and where OWNER's facilities will remain on or be relocated on COUNTY road right of way, a Joint Use Agreement or Consent to Common Use Agreement shall be executed by the parties.

It is understood that said highway is a federal aid highway and accordingly, 23 CFR, Chapter 1; Part 645 is hereby incorporated into this Agreement.

UTILITY AGREEMENT NO. 12

In addition, the provisions of 23 CFR 635.410, BA, are also incorporated into this agreement. The BA requirements are further specified in Moving ahead for Progress in the 21st Century MAP-21, section 1518; 23 CFR 635.410 requires that all

Manufacturing processes have occurred in the United States for steel and iron products (including the application of coatings) installed on a project receiving funding from the FHWA.

OWNER understands and acknowledges that this project is subject to the requirements of the BA law (23 U.S.C., Section 313) and applicable regulations, including 23 CFR 635.410 and FHWA guidance will demonstrate BA compliance by collecting written certification(s) from vendor(s) or by collecting written certification(s) from the manufacturer(s) (the mill test report (MTR)).

All documents obtained to demonstrate BA compliance will be held by the OWNER for a period of three (3) years from the date the final payment was received by the OWNER and will be made available to Caltrans or FHWA upon request.

One set of copies of all documents obtained to demonstrate BA compliance will be attached to, and submitted with, the final invoice.

IN WITNESS WHEREOF, the above parties have executed this Agreement the day and year above written.

COUNTY OF NEVADA:

OWNER:

By Edward C. Scofield 9/22/15
Honorable Edward C. Scofield Date
Chair, Board of Supervisors

By Torrey Denoo 10/13/15
Torrey Denoo Date
AT&T Area Manager

12
NF

RECORDING REQUESTED BY AND RETURN TO:
PACIFIC BELL TELEPHONE COMPANY
Right of Way Office
2700 Watt Avenue, Room 3012
Sacramento, CA 95821

Nevada County Recorder
Gregory J. Diaz
Document#: 20150025051
Tuesday October 27 2015, at 03:52:52 PM

Paid:
Recorded By: AB

Location: City/County of Nevada
Recording Fee \$ _____
Document Transfer Tax \$ 0
 This is a conveyance where the consideration and Value is less than \$100.00 (R&T 11911).
 Computed on Full Value of Property Conveyed, or
 Computed on Full Value Less Liens & Encumbrances Remaining at Time of Sale

Severiano C. Del Real
Signature of declarant or agent determining tax

(SPACE ABOVE FOR RECORDER'S USE ONLY)

JOB # A006MCR, R/W # NEV14937-01, TB60

AGREEMENT

JOINT USE AGREEMENT

THIS JOINT USE AGREEMENT, hereinafter called "Agreement", entered into this 13th day of October, 2015, by and between PACIFIC BELL TELEPHONE COMPANY, a California corporation doing business as AT&T California, hereinafter called "AT&T", and the NEVADA COUNTY, a political subdivision of the State of California, hereinafter called "Agency",

RECITALS

A. AT&T has established an easement by operation of law, and asserts an easement by prescription hereinafter referred to as "AT&T Easement", described as follows:

A prescriptive easement for a telecommunication route consisting of a single line of poles and necessary guy anchors suspended therefrom, and appurtenances thereto, together with a right of way along said pole line route.

B. Agency has acquired certain rights of way and easements for roadway purposes in the vicinity of Newtown Road, County of Nevada, hereinafter referred to as "Agency right of way", which said Agency right of way is subject to AT&T's easement.

C. AT&T's facilities installed pursuant to AT&T's easement will interfere with the Newtown Road widening project, and Agency desires to eliminate such interference.

NOW, THEREFORE, AT&T and Agency hereby mutually agree as follows:

1. The location of AT&T's easement so far as it now lies within said Agency right of way is hereby changed to the location, described as follows hereinafter referred to as "new location",:

The route of poles, guy anchors, appurtenances thereto identified as locations upon the print of the construction drawing for Job Number A006MCR, which includes Fourteen (14) poles, and Five (5) anchor/guy wires to be relocated attached hereto and made a part hereof.

2. Agency acknowledges AT&T's title to AT&T's easement in said new location and the priority of AT&T's title over the title of Agency therein. AT&T has and reserves the right and easement to use, in common with the public's use of Agency's right of way, said new location for all of the purposes for which AT&T's easement was acquired, without need for any further permit or permission from Agency. Except in emergencies, AT&T shall give reasonable notice to Agency before performing any work on AT&T's facilities in said new location where such work will be performed in, on or over the traveled way or improved shoulders of said Agency right of way or obstruct traffic. AT&T shall make adequate provisions for the protection of the traveling public.

3. In the event that the future use of said Agency right of way shall at any time or times necessitate a rearrangement, relocation, reconstruction or removal of any of

AT&T's facilities then existing in said new location, the Agency shall notify AT&T in writing of such necessity and agree to reimburse AT&T on demand for its costs incurred in complying with such notice. AT&T will provide Agency with plans of its proposed rearrangement and an estimate of the cost thereof and, upon approval of such plans by Agency and the execution of a relocation contract, AT&T will promptly proceed to effect such rearrangement, relocation, reconstruction or removal. AT&T shall make adequate provisions for the protection of the traveling public. No further permit or permission from Agency for such rearrangement shall be required and if such rearrangement shall require relocation of any of AT&T's facilities outside of said new location, Agency will (1) enter into AT&T's standard form of Joint Use Agreement covering the replacement location of AT&T's easement within the right of way, (2) provide executed document(s) granting to AT&T good and sufficient easement(s) outside of the right of way if necessary to replace AT&T's easement or any part thereof, and (3) reimburse AT&T for any costs it may be required to expend to acquire such easement, provided it is mutually agreed in writing that AT&T shall acquire such easement.

4. AT&T hereby consents to the construction, reconstruction, maintenance or use by Agency for roadway purposes over, along and upon AT&T's easement in the new location subject to AT&T's right and easement to use said new location for all of the purposes for which AT&T's easement was acquired and to the terms and conditions herein contained. AT&T does not by this Agreement and shall not be deemed to subordinate its rights in the new location to any use which Agency shall make of said area.

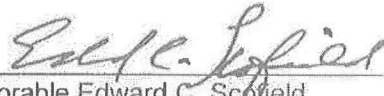
5. Except as expressly set forth herein, this Agreement shall not in any way alter, modify or terminate any provision of AT&T's easement or the priority thereof over the title of Agency in said new location. Both Agency and AT&T shall use said new location in such a manner as not to interfere unreasonably with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which AT&T or Agency may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities by either Agency or AT&T in such a manner as to cause an unreasonable interference with the use of said new location by the other party.

6. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties.

The parties have caused this Agreement to be executed by their respective duly authorized officials.

Agency: NEVADA COUNTY, a
political subdivision of the State of
California

PACIFIC BELL TELEPHONE
COMPANY, a California corporation
doing business as AT&T California

By: 
Honorable Edward C. Scofield
Chair, Board of Supervisors

By: 
Torrey Denoo
AT&T Area Manager

ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that

State of California

County of Nevada

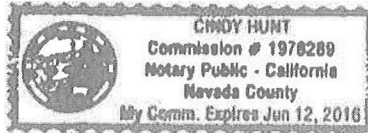
On 9/22/15 before me, Cindy Hunt, Notary Public, personally appeared Edward C. Scofield

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Cindy Hunt Seal



ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that

State of California

County of Placer

On 10-13-15 before me, Severiano C-Del Real, Notary Public, personally appeared T. Denoo

who proved to me on the basis of satisfactory evidence to be the person~~s~~ whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity~~(ies)~~, and that by his/~~her~~/their signature~~(s)~~ on the instrument the person~~s~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Severiano C. Del Real Seal



REL 0 7/2015

SAFETY NOTES
 FOLLOW ALL 22 STATE AND LOCAL SAFETY PRACTICES WHILE PERFORMING ALL WORK FUNCTIONS ON THIS PROJECT

USE APPROVED TRAFFIC CONTROL IN ALL PUBLIC AREAS

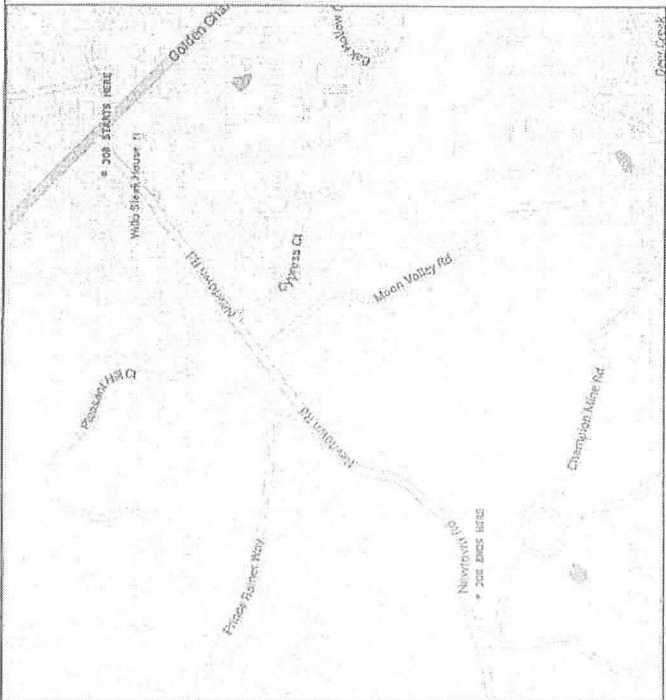
PARK RESPONSIBLY AT WORK LOCATIONS

CORRECT ANY G.O. VIOLATIONS OBSERVED
 VERIFY ALL BONDING AND GROUNDING COMPLIES WITH GUIDELINES
 PLEASE USE THE FOLLOWING APEX REFERENCES AS NEEDED:

- 1. ATT 918-216-108 - FIBER AND COPPER
- 2. ATT 627-020-005 - AERIAL INFO
- 3. ATT 627-020-006 - BURIED INFO
- 4. ATT 876-400-100 - ENGINEERING INFO
- 5. ATT 876-181-130 - GENERAL INFO
- 6. ATT 460-300-950 - BSM INFO

SUPER SEG: 3460-6710
 PLRS: NV1301A, NV1301B, NV1301C
 NV1302D, NV1501
 DA: 410802

T-BUG TESTING REQ'D FOR ALL DIGITAL SERVICES

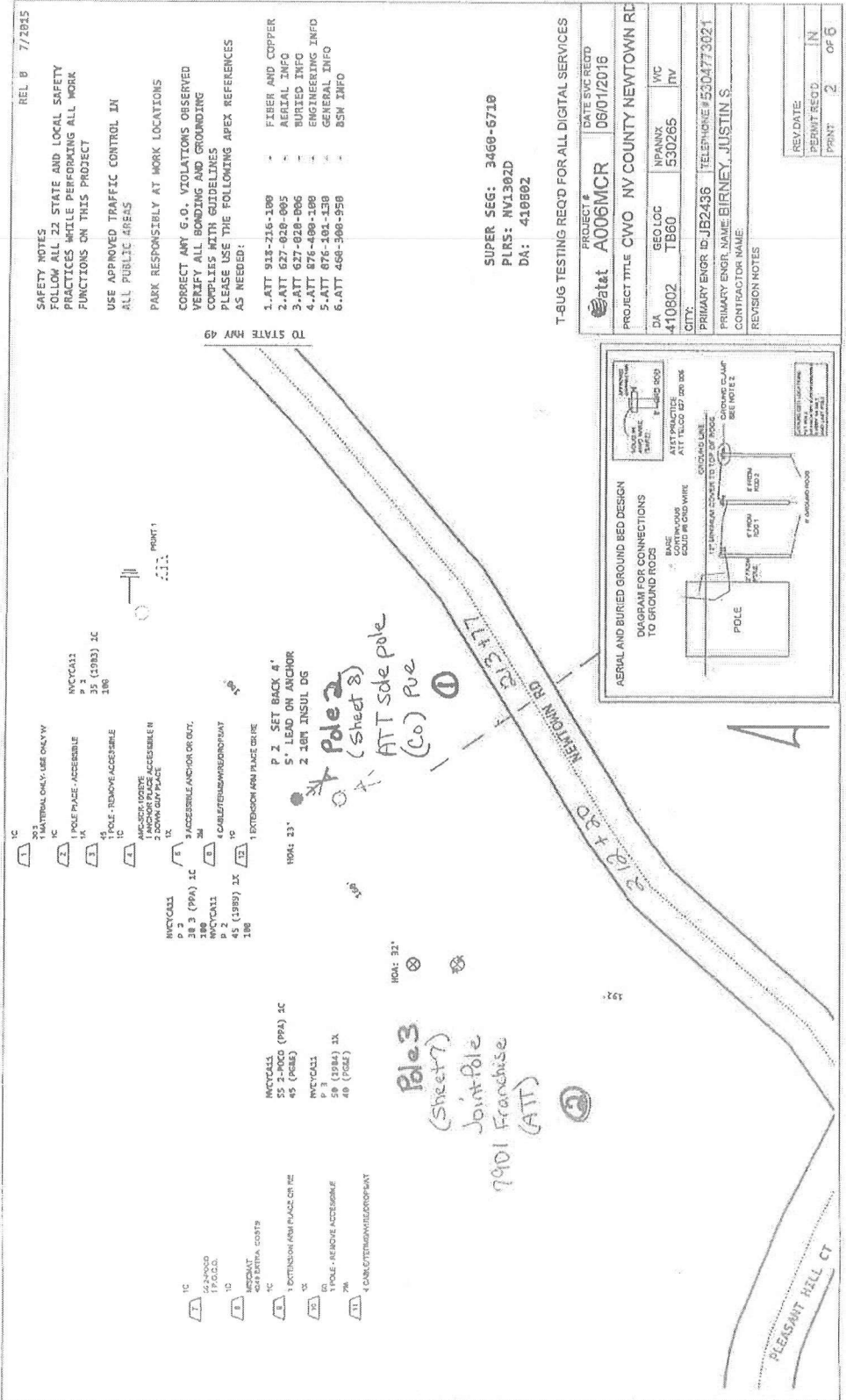


46L TASKS

- 1 HOUSE INCLUDING TOWER & 10
- 2 HOUSE INCLUDING TOWER & 10
- 3 HOUSE INCLUDING TOWER & 10

PROJECT #		DATE SVC BEGD	
A006MCR		06/01/2016	
PROJECT TITLE: CWO NV COUNTY NEWTOWN RD PRO			
DA	GEO LOC	NPANK	WIC
410802	TB60	530265	ITV
CITY:			
PRIMARY ENGR. ID: JB2435 TELEPHONE #5304773021			
CONTRACTOR NAME: BIRNEY, JUSTIN S			
REVISION NOTES			
REV DATE	PERM REQD	IN	CF 6
PRINT	1		

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REL 0 7/28/15

SAFETY NOTES
 FOLLOW ALL 22 STATE AND LOCAL SAFETY PRACTICES WHILE PERFORMING ALL WORK FUNCTIONS ON THIS PROJECT
 USE APPROVED TRAFFIC CONTROL IN ALL PUBLIC AREAS
 PARK RESPONSIBLY AT WORK LOCATIONS

CORRECT ANY G.O. VIOLATIONS OBSERVED
 VERIFY ALL BONDING AND GROUNDING COMPLIES WITH GUIDELINES
 PLEASE USE THE FOLLOWING APEX REFERENCES AS NEEDED:

- 1. ATT 938-216-109 - FIBER AND COPPER
- 2. ATT 627-628-065 - AERIAL INFO
- 3. ATT 627-628-066 - BURIED INFO
- 4. ATT 876-489-189 - ENGINEERING INFO
- 5. ATT 876-502-338 - GENERAL INFO
- 6. ATT 486-506-936 - BSM INFO

SUPER SEG: 3468-6710
 PLS: NV1302D
 DA: 410802

T-BUG TESTING REQD FOR ALL DIGITAL SERVICES

PROJECT #	DATE SVC REQD		
006MCR	06/01/2016		
PROJECT TITLE CWO NV COUNTY NEWTOWN RC PRO			
DA	GEO LOC	NPANX	VIC
410802	TB60	530265	NV
CITY:	PRIMARY ENGR ID: JB2436 TELEPHONE: 5304773021		
CONTRACTOR NAME: BIRNEY, JUSTIN S.			
REVISION NOTES			
REV DATE	PERMIT REQD	IN	OF 6
	PRINT	2	

AT&T Proprietary (Internal Use Only.) Not for use or disclosure outside of AT&T companies except under written agreement.

2 poles
1 Joint Pole