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DEPARTMENT OF BUDGET AND FISCAL SERVICES
KA 'OIHANA MĀLAMA MO'OHELU A KĀLĀ
CITY AND COUNTY OF HONOLULU

RICK BLANGIARDI
MAYOR
MEIA

530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAI'I 96813
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • WEBSITE: honolulu.gov/budget

ANDREW T. KAWANO
DIRECTOR
PO'O

CARRIE CASTLE
DEPUTY DIRECTOR
HOPE PO'O

March 3, 2026

The Honorable Tommy Waters
Chair and Presiding Officer
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawai'i 96813

Dear Chair Waters and Councilmembers:

SUBJECT: Resolution for Telecommunications Facilities Lease Agreement with T-Mobile West LLC for its existing Telecommunication Facility Located within the City-Owned Harbor Village Apartments
TMK: 1-7-002:027
Area: 332 Square Feet

Attached for your review and appropriate action is a resolution relating to a new Telecommunications Facilities Lease Agreement with T-Mobile West LLC (T-Mobile) to allow for its continued telecommunications operation within the subject property.

The telecommunication process is governed by Section 38-12, Revised Ordinances of Honolulu, 2021 as amended (ROH), for telecommunication facilities. In 2009, the Lease and Rental Ordinance was amended by adding a section on leases and licenses for telecommunication facilities on City properties. The purpose of the ordinance was to group telecommunication sites into two (2) types and to standardize the monthly rental amounts based on the footprint sizes of the facilities.

The two (2) telecommunication types are:

1. *"Type I Telecommunication Facility"* means any telecommunications facility where the entire telecommunications facility is attached to or supported by any permanent building or other structure of the City located on the property on which the telecommunications facility is located.

2. *"Type II Telecommunication Facility"* means any telecommunications facility that does not meet the definition of "Type I Telecommunication Facility."

The telecommunications facilities lease agreement that we are requesting approval for is categorized as "Type II Telecommunication Facilities". The monthly rental fees for "Type II Telecommunication Facilities" are as follows:

Aggregate Footprint	Monthly Rental Amount
475 square feet or less	$1,000
Greater than 475 but less than or equal to 525 square feet	$1,200
Greater than 525 but less than or equal to 575 square feet	$1,425
Greater than 575 but less than or equal to 625 square feet	$1,650
Greater than 625 but less than or equal to 675 square feet	$1,875
Greater than 675 but less than 725 square feet	$2,100
725 square feet or more	$2,325

ROH Section 38-12.2 allows the City to recommend and the City Council may authorize a different monthly rental amount when: (i) the City will be required to take measures to mitigate negative aesthetic aspects of the facility or minimize the potential threat of the facility to public safety; (ii) in instances where the department determines that the monthly rental amount is not feasible or equitable; or (iii) in instances where the department accepts property or services in lieu of payment if approved by the city department or agency currently using the property.

The Department of Information Technology has determined that following the monthly telecommunication rental fee table, as outlined in the ROH is not feasible or equitable for the City. In 2002 the City and Voicestream PCS II Corporation entered into a Non-Exclusive Communication Utilities Easement Agreement for 20 years. Voicestream PCS II Corporation through succession is now known as T-Mobile West LLC. Although the agreement has expired, T-Mobile has continued to pay its rental fee. A total payment of $25,262.19 was paid 2025. The initial proposed monthly fee of $2,191.00 or $26,292.00 per year reflects the continuance of the four percent (4%) annual increase. By following the ROH monthly fee table, the City would only be able to charge $1,000 per month or $12,000 per year and would not be able increase its annual fee by four percent (4%) each year, compounded annually. This annual increase would assist with the constant increase of maintenance costs of the property.

The various City agencies, including the Department of Housing and Land Management, have no objections to entering into an agreement with T-Mobile to allow the continuation of its telecommunication operation within a portion of the City-owned Harbor Village Apartments.

Should you have any questions, please contact me at (808) 768-3901.

Sincerely,

Andrew T. Kawano
Director

Attachment

APPROVED:

Michael D. Formby, Managing Director
Office of the Managing Director

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No._____

RESOLUTION

APPROVING A TELECOMMUNICATIONS FACILITIES LEASE AGREEMENT TO T-MOBILE WEST LLC FOR ITS EXISTING TELECOMMUNICATION FACILITY WITHIN THE HARBOR VILLAGE APARTMENTS, 901 RIVER STREET, HONOLULU, O'AHU, HAWAI'I, TMK: (1) 1-7-002:027.

WHEREAS, the licensing of City and County of Honolulu ("City") property for telecommunication facilities is governed by Chapter 38, Article 12, Revised Ordinances of Honolulu 2021 ("ROH"); and

WHEREAS, in 2002 Voicestream PCS II Corporation, a Delaware corporation, now known as T-Mobile West LLC, a Delaware limited liability company ("T-Mobile West"), entered into a Non-Exclusive Communication Utilities Easement Agreement with the City and County of Honolulu to constuct its telecommunications system with a total area of 332 square feet within a portion of the City-owned Harbor Village Apartments, located at 901 River Street, Honolulu, Hawai'i, 96817, identified as Tax Map Key Number (1) 1-7-002:027 ("Property"); and

WHEREAS, T-Mobile West LLC was certified by the State of Hawai'i Department of Commerce and Consumer Affairs to transact business in the State as a Foreign Limited Liability Company in 2012; and

WHEREAS, T-Mobile West desires to continue the operation of its telecommunication facilities within a portion of the Property; and

WHEREAS, the Director of Information Technology recommends that the City enter into a communication site lease agreement with T-Mobile West to allow continued operation of its Type II telecommunication facilities within the Property; and

WHEREAS, unless otherwise authorized by the Council, monthly telecommunications license fees to be charged by the City are as set forth in ROH Section 38-12.3; and

WHEREAS, the Department of Information Technology has determined that following the monthly telecommunications rental fee table, as outlined in ROH Section 38-12.3 is not feasible or equitable for the City; and

WHEREAS, the recommended use fee for the first year for T-Mobile West is TWO THOUSAND ONE HUNDRED NINETY ONE DOLLARS ($2,191.00) per month or an annual fee of TWENTY SIX THOUSAND TWO HUNDRED NINETY TWO DOLLARS

($26,292.00), to be increased by four percent (4%) each year, compounded annually, for the duration of the agreement; and

WHEREAS, the agreement with T-Mobile West shall be for a term of five (5) years, with the option to extend for four (4) additional five-year periods, not exceeding a total of twenty-five (25) years and shall be subject to the additional terms and conditions set forth in the proposed agreement, which is attached hereto as Exhibit A and by reference is incorporated herein; and

WHEREAS, in order to permit T-Mobile West to enter into an agreement for more than five (5) years, T-Mobile West is required to expend more than $25,000 for capital assets or for the renovation or maintenance of any capital asset for the term of the agreement, as outlined in ROH Section 38-4.1(1); and

WHEREAS, the Department of Housing and Land Management, which has jurisdictional control of the Property, has no objection to the lease agreement; now, therefore

BE IT RESOLVED, by the Council of the City and County of Honolulu that the Council consents to and approves the proposed lease agreement attached hereto as Exhibit A and by reference made a part of this Resolution; and

BE IT FURTHER RESOLVED that the Director of the Department of Budget and Fiscal Services and/or official designee is hereby authorized to:

1. Execute a Communications Site Facilities Lease Agreement with T-Mobile West in substantially the same form as the proposed agreement attached hereto as Exhibit A; and
2. Execute any incidental or related agreements and documents in furtherance of the above agreement, so long as such agreements and documents do not incur additional obligations on the part of the City; and

BE IT FURTHER RESOLVED that the Council approves of the deposit of all fees received under the lease agreement into the City's general fund; and

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No._____

RESOLUTION

BE IT FINALLY RESOLVED that the Clerk be directed to transmit a certified copy of this Resolution to the Directors of the Departments of Budget and Fiscal Services, Housing and Land Management and Information Technology.

INTRODUCED BY:

_____

_____

_____

_____

_____

_____

DATE OF INTRODUCTION: _____

_____

_____ _____

Honolulu, Hawai'i

Report Title:

Telecommunications Facilities Lease Agreement; Harbor Village Apartments; Telecommuncations Facilities: T-Mobile West LLC

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

TELECOMMUNICATIONS FACILITIES LEASE AGREEMENT
CITY AND COUNTY OF HONOLULU
901 River Street, Honolulu, Hawai'i

This Telecommunications Facilities Lease Agreement (hereinafter referred to as this "Lease" or "Agreement") is entered into as of _____, 202__ (the "Effective Date"), by and between City and County of Honolulu, a municipal corporation of the State of Hawai'i, whose address is 530 South King Street, Honolulu, Hawai'i 96813, hereinafter called the "Lessor", and T-Mobile West LLC, a Delaware limited liability company, whose principal place of business is 12920 S.E. 38th Street, Bellevue, Washington 98006, hereinafter called the "Lessee."

W I T N E S S E T H

WHEREAS, Lessor is the fee owner of certain real property and improvements (if any) thereon, situated in the City and County of Honolulu, State of Hawai'i (the "Property"), which is legally described on Exhibit A attached hereto and incorporated herein by reference and which includes a portion referred to hereinafter as the "Leased Premises" as defined below.

WHEREAS, Lessee is a duly licensed "telecommunications carrier" or "telecommunications common carrier" as those terms are defined by Hawai'i Revised Statutes, Section 269-1 (2005), registered and licensed to do business in the State of Hawai'i.

WHEREAS, Lessor and Lessee have determined that it is in their best interest for Lessor to lease to Lessee and for Lessee to lease from Lessor the Leased Premises, for the Term and subject to and upon the consideration of the terms, duties, obligations, covenants, conditions, and special agreements set forth in this Lease.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Lessor and Lessee do hereby agree as follows:

ARTICLE 1
SPECIFIC PROVISIONS AND EXHIBITS

1.01 Specific Provisions. The following constitute specific provisions of this Lease:

(A) Description of the Leased Premises: A designated portion of 901 River Street, Honolulu, Hawai'i 96817, identified as Tax Map Key Number: (1) 1-7-002:027, as shown on Exhibit B attached hereto.

(B) Area of Leased Premises: 332 sq. ft.

(C) Term: Five (5) years, with four options to renew additional five (5) year terms, not to exceed a total lease period of twenty-five (25) years.

(D) Lease Fee: Two Thousand One Hundred Ninety One Dollars ($2,191.00) per month or Twenty Six Thousand Two Hundred Ninety Two Dollars ($26,292.00) per annum, subject to the increases in Sections 3.01 and

3.06, payable in advance, by or before the first day of each month.

1.02 Permitted Use by Lessee:

(A) The Leased Premises may be used by Lessee for the construction, installation, operation, maintenance, repair, update, removal and replacement of the Telecommunication Facilities for the transmission and reception of communication signals, including wireless communication purposes and uses incidental thereto.

(B) Except in case of emergency, Lessee shall be required to obtain written approval from Lessor prior to the construction, installation, repair, update, and replacement of any Telecommunication Facilities or Improvements on the Leased Premises.

1.03 City Council Approval: Lessee understands that this Lease is subject to approval by the Honolulu City Council. Lessor shall be responsible for preparing the necessary documentation required to seek City Council approval for the Lease, while Lessee shall make itself available to provide supplemental information or testimony as may be necessary in support of any such request.

1.04 Information for Notices: All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given upon receipt if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresse(s):

If to Lessee:

T-Mobile
12920 S.E. 38th Street
Bellevue, Washington 98006
Attention: Lease Compliance/HI02063D

If to Lessor:

City and County of Honolulu
Department of Budget and Fiscal Services
530 S. King Street, Room 208
Honolulu, Hawai'i 96813

With a copy to:
City and County of Honolulu
Department of Housing and Land Management
650 S. King Street, 3rd Floor
Honolulu, Hawai'i 96813
Phone: (808) 768-4277

ARTICLE 2
DEFINITIONS

Unless the context otherwise specifies or requires, the following terms shall have the meanings hereinafter specified:

2.01 "Antenna" or "Antennas" shall mean any system of wires, poles, rods, reflecting discs, dishes or similar devices used for the transmission or reception of wireless communications service signals.

2.02 "Improvements" shall mean all improvements existing on the Commencement Date or at any time thereafter built, installed, or finished by anyone authorized by Lessee in the Leased Space, including, without limitation, all mechanical and electrical conduits, wiring fixtures and equipment; floor covering, other fixtures of all kinds; and water, electricity, telephone and other utility lines, ducts, conduits and facilities serving other portions of the Facility which may pass through the Leased Space.

2.03 "Facility" or "Facilities" shall mean either (a) any Telecommunications Facilities or any portion thereof attached to or supported by any permanent building or other structure located on the Leased Space (Type I Telecommunications Facilities), or (b) any free-standing, self-supported Telecommunications Facilities or any portion thereof detached from or not supported by any permanent building or other structure located on the Leased Space (Type II Telecommunications Facilities). In some instances, this term shall be identified as FCC Antenna Structure Number.

2.04 "Leased Space" shall mean the designated portion of the Property leased hereunder and all Improvements therein together with access and utilities on the Property. The Leased Premises shall consist of the area indicated on Exhibit B.

2.05 "Telecommunications Facilities" shall mean the plant, equipment, and property, including but not limited to pedestals, Antenna or Antennas, equipment shelters, communication tower, emergency generators, utility wires, poles, conduit, pipes, cable line over, under, and across the Leased Premises, electronics, and other appurtenances used to transmit, distribute, provide or offer telecommunications.

2.06 "Telecommunications" shall mean the offering of transmission between or among points specified by a user, of information of the user's choosing, including but not limited to voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit or any closed transmission medium, but does not include cable service as defined in section Hawai'i Revised Statues §440G-3.

2.07 "Term" shall mean the period beginning on the Commencement Date and ending upon the expiration date of the final 5-year renewal term, unless sooner terminated as provided in this Lease.

ARTICLE 3
RENT; TERM

3.01 The initial fee for this Lease (the "Lease Fee") shall be Two Thousand One Hundred Ninety One Dollars ($2,191.00) per month or an annual fee of Twenty Six Thousand Two Hundred Ninety Two Dollars ($26,292.00), payable without notice or demand to Lessor. The Lease Fee is payable in advance, by or before the first day of each month. The Lease Fee for

each subsequent year ("New Annual Lease Fee") shall be calculated annually, to the beginning of the next annual period, by applying four percent (4%) to the fee for the current year ("Current Lease Fee") as follows:

Year	Current Lease Fee	% Increase	Annual Increase	New Annual Lease Fee
1	$ 26,292.00	4%	$ 1,051.68	$ 27,343.68
2	$ 27,343.68	4%	$ 1,093.75	$ 28,437.43
3	$ 28,437.43	4%	$ 1,137.50	$ 29,574.93
4	$ 29,574.93	4%	$ 1,183.00	$ 30,757.93
5	$ 30,757.93	4%	$ 1,230.32	$ 31,988.25

3.02 Late Payment Charges. Every installment of the Lease Fee and every other payment due hereunder from Lessee to Lessor which has not been paid within thirty (30) days after the installment or payment has become due shall bear interest from the date that the installment or payment became due and payable until the installment or payment is paid, whether or not demand be made therefore, at the rate of one percent (1%) per month, or fraction thereof.

3.03 Lease Fee payments shall be made to:

City and County of Honolulu
Department of Budget and Fiscal Services
Division of Purchasing
530 S. King Street, Room 115
Honolulu, Hawai'i 96813
Reference: Harbor Village, 901 River Street Lease

3.04 Non-waiver of Rights. Acceptance of any late payment or charge by Lessor shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent Lessor from exercising any of the other rights and remedies granted hereunder.

3.05 Initial Term. The initial term of this Lease shall be for a period of five (5) years commencing on the first day of the first full month following full execution of this Lease (the "Commencement Date").

3.06 Additional Five-Year Terms. Lessee is hereby granted options for four additional five (5) year terms (each, a "Renewal Option"), not to exceed a total lease period of twenty-five (25) years. Lessee may exercise each Renewal Option by providing a notice to Lessor no less than twelve (12) months before the end of the expiring five-year term. Notice shall be sent to the address listed in Paragraph 3.03. Lessor retains its right to terminate or revoke this Lease as provided herein, notwithstanding Lessee's exercise of any Renewal Option. Such notice shall only be effective if delivered at a time when Lessee is not in Default hereunder. Within thirty (30) days following its receipt of Lessee's notice of its desire to exercise a Renewal Option, given at the time and in the manner provided above, Lessor shall prepare and transmit to Lessee an appropriate amendment to this Lease extending the Term for each Renewal Option, and specifying the Lease Fee proposed for such extension.

ARTICLE 4
LEASED PREMISES

4.01 This Agreement is for the exclusive rental of the Leased Space by Lessee.

4.02 No Exclusive Right in Remainder of the Property. Nothing contained in this Lease shall be construed as granting to Lessee the exclusive right to conduct any particular business on the Property. This Agreement shall not prohibit Lessor from making such uses of the Property, which do not unreasonably interfere with the exercise by Lessee of the rights herein granted. Lessor may from time-to-time grant similar agreements on other portions of the Property, subject to this Lease hereby granted, to other applicants whose use will not unreasonably interfere with Lessee's use of the Leased Premises. All revenue derived from said other agreements of Lessor shall be payable to Lessor.

4.03 Easement and Setbacks. This Lease is subject to all prior easements, setbacks and rights-of-ways granted to construct, install, operate, maintain, repair, update and replace lines and other transmission facilities and appurtenances for electricity, telephone, water, sewers, drainage and any other services and utilities over, across and under such easements according to the respective designation thereof. Lessor further excepts and reserves the right to grant such additional easements and right-of-way outside of the Leased Premises as from time to time appear to Lessor to be necessary or expedient for the economic development of the Property and/or other property owned or controlled by Lessor.

4.04 Access and Utilities. Subject to the time limitations set forth herein, Lessor grants and conveys to Lessee and its lessees, licensees and invitees the nonexclusive right of ingress, egress and regress over and across the Property to the Leased Premises, together with the right, subject to written consent and approval by Lessor, to install, replace, update and maintain radio transmitting and receiving antennas, microwave dishes, tower and base, equipment, shelters and/or cabinets and related cables and utility lines as more fully shown on Exhibit B. Lessee shall have access to the Leased Premises during the normal business hours of 8:00am – 5:00pm, Monday through Friday, excluding State Holidays. Lessee may access the Leased Premises outside of normal hours, provided the Lessee has sought and obtained approval to access the Leased Premises from Lessor at least seventy-two (72) hours in advance. In the event that Lessee requires use of the loading dock for oversized vehicles or equipment during business hours, such use shall be requested by Lessee from Lessor a minimum of seventy-two (72) hours in advance Notwithstanding the foregoing, in the event of an emergency, Lessee shall have the right to immediate access to the Leased Premises at any time without prior notice or approval, provided that Lessee notifies Lessor as soon as reasonably practicable thereafter.

ARTICLE 5
LESSEE'S UNDERSTANDING REGARDING THE LEASED PREMISES

5.01 Assumption of Risk. Lessee understands that Lessor makes no guarantee of the suitability or safety of the Property, including the structures, improvements, or tower, and Lessee agrees to assume all risk, corporate and personal, for the use of the Leased Premises.

5.02 Care of Leased Premises. Lessee shall, at Lessee's sole expense and in accordance with the terms of this Lease, keep the Leased Premises and all Improvements in good order, repair, and condition at all times during the Term.

5.03 Lessor's Access to Leased Premises.

(A) Lessor and Lessor's employees and agents may reasonably access all parts

of the Leased Premises. Lessor will endeavor to give Lessee twenty-four (24) hours' prior notice to accessing enclosed areas. However, in the event of an emergency where Lessor cannot reasonably comply with the foregoing notice requirement and depending on the circumstance, Lessor shall provide notice to Lessee as soon as possible of (i) the date and time of emergency access, and (ii) the nature of the event requiring emergency access.

(B) Lessor agrees not to modify, alter, or tamper with any of Lessee's Telecommunications Facilities, except:

(i) When required to do so to maintain the structural integrity or maintenance of the Leased Premises;

(ii) Due to the failure of Lessee to maintain its obligations under this Lease; or

(iii) For public health, safety, or welfare.

(C) The parties agree that Lessor is not responsible for any damage to the Telecommunication Facilities if Lessor accessed or modified the Telecommunication Facilities pursuant to Section 5.03 (a) – (c).

5.04 Compliance with Laws. In the exercise of its rights granted hereunder. Lessee shall comply with all applicable laws, statutes, ordinances, rules and regulations of the Federal, State, and City and County of Honolulu governments or any agency thereof, now in force or which may hereinafter be in force, including but not limited to, obtaining any necessary permits and approvals from Lessor in its regulatory capacity prior to commencement of any construction and installation work, obtaining approvals from the State Department of Land and Natural Resources whenever the project is within a conservation area, notifying the neighborhood board(s) if required by City ordinance, and complying with any applicable rules and regulations enforced by such community or homeowner's associations if required by law.

5.05 Ownership. All alterations, additions, or Improvements to the Leased Premises made by Lessee, except Telecommunications Facilities or trade fixtures, shall upon expiration or termination of this Lease become a part of the realty and be owned by Lessor. Except as otherwise provided in this Lease, Lessee shall have the right to remove its Telecommunications Facilities or trade fixtures placed upon the Leased Premises provided that Lessee restores the Leased Premises as indicated in Section 5.01, reasonable wear and tear and casualty accepted.

5.06 Emergency Resources. Should any emergency situation arise at or around the Leased Premises, Lessor will require that a representative of Lessee be available. Lessee's Primary contact information for Network Operations is 866-482-8890.

5.07 Sale of Lessor's Interest. Lessor shall have the right to sell, convey, transfer or assign all or any part of its interest in the Property, or all or any of its rights and obligations under this Lease without prior written notice to Lessee.

5.08 Lessee Attornment. Upon receipt of written notice of such transfer, Lessee shall attorn to any purchaser or assignee under Section 5.07.

5.09 Sale or Assignment by Lessor. Lessor shall be automatically freed and relieved from all liability respecting the performance of any covenants or obligations on the part of Lessor contained in this Lease that arises on or after the date of a sale, conveyance or assignment, and

the buyer, grantee or assignee shall become responsible for all of the covenants and conditions herein contained and or the part of Lessor to be observed or performed after the time of such sale or conveyance.

5.10 Surrender of the Leased Premises. Upon the expiration or earlier termination of this Lease, Lessee will surrender and deliver to Lessor possession of the Leased Premises in good condition and repair, ordinary use and wear excepted. Lessee may, or if Lessor shall so require will, remove all Telecommunications Facilities and trade fixtures erected or placed in the Leased Premises. Lessee shall repair all damage to the Leased Premises and remaining Improvements caused by or resulting from such removal and leave the Leased Premises in a clean and orderly condition. In the event Lessee fails to perform such removal and restoration directed by Lessor within thirty (30) days following written notice provided by Lessor, Lessor may do so and Lessee, upon demand, will apply to Lessor the cost thereof. This obligation shall survive the expiration or termination of this Lease. Any property left upon the Leased Premises by Lessee at the expiration or termination of this Lease may, at the option of Lessor, be (a) removed and stored by Lessor, at Lessee's cost, or (b) be deemed by Lessor to have been abandoned by Lessee, in which case Lessor may, at Lessee's cost, appropriate, destroy or dispose of the same without liability or accountability to Lessee, including, but not limited to, conducting an auction of such property at the Leased Premises at which Lessor may, but is not obligated to, bid for and purchase such property.

5.11 Holding Over. If Lessee fails to vacate the Leased Premises after the expiration or sooner termination of this Lease, all the terms, covenants and agreements hereof shall continue to apply and bind Lessee so long as Lessee fails to vacate the Leased Premises, insofar as the same are applicable, except, that, if Lessee fails to vacate the Leased Premises, (a) Lessee's continued occupancy shall be on the basis of a month-to-month tenancy, (b) in lieu of the Lease Fee payment, Lessee shall pay Lessor an amount of money equal to one hundred fifty percent (150%) of the sum of the Lease Fee payment for the last month of the Term, prorated on a daily basis for each day that Lessee fails to vacate, (c) Lessee shall pay any other amounts owed to Lessor, and (d) Lessee shall also be liable to Lessor for any damages resulting from failure to vacate. If Lessor provides written notice to vacate, Lessee shall have a continuing duty to vacate the Leased Premises without notice by Lessor. If Lessee remains in possession with Lessor's written consent, such tenancy shall be from month-to-month, terminable by either party by not less than twenty-five (25) days prior written notice.

5.12 Consequential Damages. Neither party shall be responsible for any consequential damages to the other party and this clause shall survive the termination of this Lease.

5.13 No Consent or Waiver Implied. Except as provided herein, Lessee acknowledges that nothing in this Article shall be construed to affect or in any way diminish Lessee's obligation to surrender possession of the Leased Premises to Lessor on expiration or termination of this Lease. The provisions of this Article shall not be considered to limit or constitute a waiver of any other rights or remedies of either party provided in this Lease or at law.

5.14 Lessor's Right to Cancel Agreement. Following the initial 5-year term of this Lease, if Lessor deems it necessary to use the Leased Premises for any public purpose and/or physical expansion of its current operations at any time in the future, Lessee shall remove, at Lessee's own cost and expense, its Telecommunications Facilities and Improvements from the Leased Premises, and without any liability on Lessor's part; provided however, that Lessor shall give Lessee at least twelve (12) months prior written notice of any requirement for such removal. Upon such removal of the Telecommunications Facilities and Improvements from the Leased Premises, Lessee's obligations hereunder shall terminate and Lessee shall be entitled to a prorated refund of any Lease Fee and other amounts, if any, paid in advance. Lessee shall be responsible during

such removal for any and all damages to the Leased Premises, the Facility, and/or the Property, unless such damage is caused by the negligence or intentional acts of Lessor or its agents.

ARTICLE 6
ADDITIONAL COVENANTS BY LESSOR AND LESSEE

6.01 Utility Services.

(A) All utility services (electricity, telephone, gas, water, etc.) required by Lessee for the construction, maintenance and operation of the Telecommunications Facilities (but not including the utility services produced by Lessee's operations, if any), unless otherwise provided in this Agreement, shall be arranged and paid for by Lessee. Whenever utility work interferes with any operation by Lessor, Lessee shall obtain Lessor's prior consent, such consent not to be unreasonably withheld, conditioned or delayed, and schedule its work to minimize any disruptions to Lessor's operations.

(B) Lessor shall not be responsible for the interruption of AC power or any other utility service to the Leased Premises site, or in relation to Lessee's use of the Leased Premises generally, as a result of power failure or supply on the part of the supplying Electric Company or its suppliers, or future providers, except to the extent caused by the negligence or willful misconduct of Lessor.

6.02 Repairs.

(A) Lessee shall be required to make any and all repairs to the Property that are necessitated by reason of the default or neglect of Lessee. Failure to make said repairs to the Property within thirty (30) days of Lessee's receipt of notice regarding this matter shall constitute default under the terms of this Agreement; provided Lessee shall have such extended periods as may be required beyond the thirty (30) day cure period if the nature of the cure is such that it reasonably requires more than thirty (30) days to cure, and Lessee commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. Upon expiration or termination of this Lease, Lessee shall restore the Leased Premises to the condition in which it existed upon execution of this Lease, reasonable wear and tear and loss by casualty or other causes beyond Lessee's control.

(B) Lessee shall maintain in good and safe condition and repair all such Telecommunications Facilities, including equipment and antennas, for the Term of this Agreement, and shall not make, permit, or suffer waste, nuisance, or unlawful use of the Leased Premises. Upon termination or expiration of this Agreement, the removal of any and all Telecommunications Facilities or trade fixtures by Lessee shall be done in accordance with Section 5.10.

6.03 Surety Bond. As permitted under Revised Ordinances of Honolulu §38-2.12, Lessor reserves the right to require Lessee to post bond in a sum reasonably sufficient to ensure that the Telecommunications Facilities to be situated on the Leased Premises will be completed

as planned and/or maintained as required by this Lease.

6.04 Installation, Maintenance, and Operation of Equipment. All installation, maintenance or operations by Lessee on the Leased Premises shall require Lessor's prior written approval and shall be performed by Lessee in accordance with such approval. The cost for such installation, maintenance and operation shall be borne wholly by Lessee. Except in the event of emergency, any proposed changes to the equipment or the operations within the Leased Premises shall be made only upon receipt of, and in accordance with, written approval of Lessor, which shall not to be unreasonably withheld, conditioned or delayed. Lessee shall submit a written notice for such proposed changes to Lessor at least forty-five (45) days prior to such proposed changes. Lessor shall make a reasonable effort to approve or disapprove such request within forty-five (45) days. Lessee acknowledges that any such changes in equipment may result in increases in the Lease Fee payable hereunder.

6.05 Indemnity. Lessee agrees to hold harmless and indemnify Lessor from any and all responsibility for injury sustained by Lessee, Lessee's employees, Lessee's contractors, or any other person or persons acting for Lessee, or claiming by, through or under Lessee, at the Property. Additionally, Lessee certifies that its employees, contractors, and other personnel acting for Lessee are trained in applicable FCC and other government guidelines on Radio Frequency ("RF") Exposure when working in areas that exceed the General Population Limits as defined in FCC OET 65.

Further, Lessee shall indemnify, defend and save harmless Lessor, its elected and appointed officials, employees and agents, against all loss or damage to the Property, and the property of Lessor or to the property of others and from all claims, penalties or liabilities for the injury to or death of persons or damage to property when such loss, damage, injury or death arises as a result of the construction, maintenance, operation or removal of said Telecommunications Facilities, or when such loss, damage, injury or death directly arises or results from the exercise or enjoyment of the rights and privileges granted hereunder by Lessor, its elected and appointed officials, agents or employees provided, however, that such indemnification shall not apply to loss, damage, injury or death resulting from the negligence or intentional acts or omissions of Lessor, its elected and appointed officials, agents or employees.

6.06 Insurance. At all times during the term of this Lease Agreement, Lessee shall procure and maintain in full force and effect, at Lessee's sole cost and expense, the following policies of insurance in the following amounts:

6.06.1 Workers' Compensation and Employer's Liability Insurance. Lessee shall maintain workers' compensation and employer's liability insurance. Workers' compensation coverage shall be in accordance with State statutes. Employer's liability coverage shall provide limits not less than:

Bodily Injury – Each Accident	$1,000,000
Disease – Policy Limit	$1,000,000
Disease – Each Employee	$1,000,000

6.06.2 Liability Insurance. Lessee shall maintain commercial general liability ("CGL") insurance with limits not less than:

General Aggregate	$2,000,000
Products/Completed Operations Aggregate	$2,000,000
Personal/Advertising Injury	$1,000,000

Each Occurrence $1,000,000

CGL insurance shall be written on an occurrence form and shall cover bodily injury and property damage arising from Lessee's premises, operations, claims arising out of Lessee's independent contractors or subcontractors; products and completed operations; personal injury and advertising injury; and include contractual liability coverage .

6.06.3 Business Automobile Liability Insurance. Lessee shall maintain business automobile liability insurance covering all owned, non-owned and hired autos used in the performance of this Lease Agreement, with combine single limit not less than:

Bodily Injury & Property Damage – Each Accident $1,000,000

6.06.4 Umbrella/Excess Liability. Lessee shall maintain umbrella/excess liability insurance with limits not less than:

Each Occurrence	$5,000,000
Aggregate	$5,000,000

Such insurance shall be written on an occurrence form and shall be excess of the underlying insurance described in Sections 6.06.1(Employer's Liability) through 6.06.3, which is at least as broad as each of the underlying policies, concurrency of effective dates with underlying primary coverages.

6.07 Nature of Insurance Program. All insurance policies this Lease Agreement requires shall be issued by carriers that: (a) have a policyholders' rating of "A-, VIII" or better, based on the latest rating publication of Property and Casualty Insurers by A.M. Best Company (or its equivalent if such publication ceases to be published); and (b) are lawfully doing business in the State.

6.08 Policy Requirements and Endorsements. All insurance policies required under this Lease Agreement shall contain (by endorsement or otherwise) the following provisions:

6.08.1 Independent Contractor insurance. Lessee shall cause each independent contractor employed by Lessee to purchase and maintain insurance of the types specified above. When requested by the City, Lessee shall furnish copies of certificates of insurance evidencing coverage for each independent contractor.

6.08.2 Insureds (Additional Insured). GGL, Business Automobile, and Umbrella Liability Insurance policies shall include the City and any other parties as the City may designate from time to time, as an "additional insured(s)" in a form reasonable acceptable to the City.

6.08.3 Primary Coverage. For claims arising out of Lessee's operations, negligent acts or willful misconduct all liability policies maintained by Lessee shall be written as primary policies not contributing to or in excess of any coverage that the City may carry, and Lessee's insurers will not seek contribution from other insurance available to the City.

6.08.4 Contractual Liability. 6.06.2 CGL (Liability insurance policy) shall contain contractual liability coverage for Lessee's insurable indemnity obligations under this Lease Agreement, to the extent covered by customary contractual liability insurance coverage. Lessee's failure to obtain such contractual liability coverage shall not relieve Lessee from any indemnity obligation under this Agreement.

6.08.5 Severability of Interest. 6.06.2 CGL (Liability insurance policy) shall contain a clause clarifying that, except with respect to coverage limits, the insurance applies separately to each insured and/or additional insured and that the policy covers claims or suits by one insured against other, to the extent customarily covered by liability insurance policies.

6.08.6 Notice to the City. All policies required hereunder shall be written to provide not less than thirty (30) days prior notice of cancellation to the City.

6.09 Waiver of Subrogation. To the extent allowed by law the Commercial General Liability Insurance and Business Automobile Liability and Umbrella Insurance will be endorsed to include a waiver of subrogation in favor of City.

Lessee and City hereby mutually releases each other from liability and waives all rights of recovery against the other Party for any loss or damage covered by the respective first-party property insurance policies for all perils insured there under or self-insured if applicable. In the event of such insured loss, neither Party's insurance company shall have a subrogated claim against the other, it being the intent of the Parties that each shall look solely to its own insurance to protect itself from loss to its own property.

6.10 Evidence of Insurance.

6.10.1 Upon execution of this Lease Agreement by Lessee, Lessee shall furnish the City with current certificate(s) of insurance, executed by a duly authorized representative of each insurer, certifying that at least the minimum coverages required herein are in effect and specifying that the liability coverages are written on an occurrence form and that the coverages will not be cancelled or non-renewed without thirty (30) days' advance written notice to the City.

6.10.2 Failure of the City to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the City to identify a deficiency from evidence that is provided shall not be construed as a waiver of Lessee's obligations to maintain such insurance.

6.10.3 The acceptance of delivery by the City of any certificate of insurance evidencing the required coverages and limits does not constitute approval or agreement by the City that the insurance requirements have been met or that the insurance policies shown in the certificates of insurance are in compliance with the requirements of this Lease Agreement.

6.11 Deductibles, and Retentions. Any self-insured retention, deductible or other similar obligations under Lessee's insurance policies required herein shall be reasonable for the telecommunication industry and the sole responsibility of Lessee.

6.12 Failure to Maintain Insurance.

6.12.1 Failure to maintain the required insurance is considered a material breach of this Lease Agreement and may result in a default of this Lease Agreement at the City's option.

6.12.2 The City shall have the right, but not the obligation, to prohibit Lessee or any of its contractors from entering the Property until Lessee has provided certificates or other evidence that insurance has been placed in complete compliance with these requirements and such certificates have been approved by the City such approval shall not be unreasonably withheld.

6.13 Additional Insurance. The City reserves the right to require additional kinds or amounts of insurance, as may be mutually agreed from time to time.

6.14 No Representation. The City makes no representation that the limits of liability required to be carried by Lessee pursuant to this Section 6 are adequate to protect Lessee. If Lessee believes that any insurance coverage or limits are inadequate, Lessee shall obtain such additional insurance coverages as Lessee deems adequate, at Lessee's sole cost and expense. Lessee assumes full risk and responsibility for any inadequacy of its insurance coverages or any failure of any of its insurers.

6.15 Security/Loss. Lessee shall maintain the Leased Premises in as secure a manner as possible. Lessor shall not be responsible for any and all loss or damage to Lessee's Telecommunications Facilities, including Lessee's equipment or antennas, due to, among other things, fire, flood, acts of God, theft, or vandalism unless caused by the negligence or willful misconduct of Lessor.

6.16 Operating Frequencies. In relation to Lessee's activities on the Leased Premises and the Property, Lessee shall comply with all applicable laws, rules, regulations and orders administered by the Federal Communications Commission ("FCC").

6.17 Government Approvals, Permits, Licenses, etc. The Parties acknowledge that Lessee's ability to use the Telecommunications Facilities is contingent upon Lessee obtaining all certificate, permits, and other approvals that may be required by federal, state, or local authorities.

(A) Lessee shall be responsible for obtaining any and all necessary permits, easements, licenses, or rights of way that may be required of it by any agency governing Lessee's construction, maintenance, and operation of the Telecommunications Facilities within the Leased Premises.

(B) Lessee shall provide to Lessor a copy of all permits, easements, licenses, or rights of way required of Lessee for its operation, if requested in writing by Lessor. Additionally, Lessee shall maintain a copy of its Federal Communications Commission License, or other Government authorization, if required, authorizing Lessee's operation within the Leased Premises. Lessee shall post any signs on or near Lessee's Telecommunications Facilities as required by law.

6.18 Non-Interference to Others. Lessee shall operate Lessee's Telecommunications Facilities in a manner that will not cause material interference to Lessor and other lessees or licensees of the Property. Lessee shall cooperate fully in identifying and correcting any interference problems Lessee's equipment may cause to such other users of the Property. If such interference cannot be corrected, Lessor may declare a default of this Lease at any time. As used in this Lease, "interference" means a condition existing which causes degradation of a transmission signal or otherwise constitutes interference within the meaning of the provisions of the recommended practices of the Electronic Industries Association and the rules and regulations of the FCC then in effect.

6.19 Environmental Requirements. Lessee, for itself, its successors, assigns, and agents, represents, warrants and agrees, that it will conduct its activities within the Leased Premises in compliance with all applicable Environmental Laws, as described below in this section. Further, Lessor represents, warrants and agrees that it has in the past and will in the future conduct its activities on the Property in compliance with all applicable Environmental Laws and that the Leased Premises is free of Hazardous Substances, as described below in this section, as of the date of this Agreement.

As used in this Agreement, "Environmental Laws" means all federal, state and local environmental and health laws, rules, regulation, ordinances, judicial or administrative decrees, orders, decision, authorizations or permits, including, but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq., the Clean Air Act, 42 U.S.C. §§ 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 1101, et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601, et seq., the Oil Pollution Control Act, 33 U.S.C. §§ 2701, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq., the Safe Drinking Water Act, 42 U.S.C. §§ 300j, and any amendments thereto, and state laws, or any other comparable local, state or federal statute or ordinance pertaining to the environment or natural resources and all regulations pertaining thereto.

As used in this Agreement, "Hazardous Substances" mean any hazardous substances, hazardous materials or hazardous wastes as defined by any of the Environmental Laws; any and all material or substance defined as hazardous, toxic or harmful to human health, natural resources or the environment pursuant to any federal, state or local laws or regulations or order; and any substance which is or becomes regulated by any federal, state or local governmental authority; any oil, petroleum products and their by-products.

Lessor shall be responsible for and shall promptly conduct any investigation and remediation as required by any Environmental Laws or common law of all spills or other releases of Hazardous Substances, except to the extent caused by Lessee or its operations or activities, that have occurred or which may occur on the Property.

Lessee agrees to defend, indemnify and hold Lessor harmless from and against any and all claims, causes of action, demands and liability including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and attorneys' fees that Lessor may suffer due to the existence or discovery of any Hazardous Substances on the Property or the migration of any Hazardous Substances to other properties or release into the environment arising solely from Lessee or its operations or activities on the Property.

This Section shall survive the termination of this Agreement.

6.20 Reimbursement of Costs. If an action is instituted by either party in any court of law or equity pertaining to the enforcement of this Lease, the prevailing party in any final or non-appealable decision on the merits shall be entitled to recover, in addition to any judgment or decree rendered therein, all court costs, including reasonable attorneys' fees as determined by a court of competent jurisdiction.

6.21 Taxes.

(A) Lessee shall pay its pro rata share of real property taxes for the Property.

(B) Tax Clearance. Lessee shall provide a current tax clearance from both the Hawai'i State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS) within sixty (60) days of entering into this Agreement with Lessor. Lessee must obtain and provide the tax clearances when requested in writing by Lessor not more than once per calendar year. Failure to obtain and provide the tax clearances upon request may result in default of this Agreement.

6.22 Early Termination. If Lessee desires to terminate the Lease prior to the expiration date, Lessee may, or if Lessor shall so require must, remove all of Lessee's Telecommunications Facilities, including antennas and equipment from the Leased Premises at any time on or before the expiration date, and notify Lessor when such removal has been accomplished. If Lessee has made a payment, in accordance with Section 3.01 for a new one-year period, and that period has not been started at the time Lessee removes all Telecommunications Facilities and terminates the Lease, then that one-year payment will be refunded.

6.23 Permitted Use of Leased Premises. The Leased Premises may be used and occupied only for the use set forth in Section 1.02 and for no other purposes, except as consented to in writing by Lessor.

6.24 Legal Compliance. Lessee will comply, at its own expense, with all applicable laws and ordinances and governmental rules and regulations applicable to the Leased Premises, including without limitation, all laws related to the handling, disposal, and storage of hazardous materials.

6.25 Signage. Lessee shall not inscribe any inscription or post, place or in any manner display any sign, notice, picture, placard or poster, or any advertising matter whatsoever, anywhere in or about the Leased Premises, except as required by law.

6.26 Legally Required. If, during the Term, any change, alteration, or addition or correction shall be required by any governmental authority to be made in or to the Leased Premises or any portion thereof, such change, alteration, addition or correction shall be made by Lessee at Lessee's sole cost and expense.

ARTICLE 7
DEFAULT

7.01 Event of Default. Each of the following shall be deemed an "Event of Default":

(A) The failure of Lessee to make any payment required under this Agreement within fifteen (15) days after written demand therefore;

(B) The failure of either party to cure a non-monetary default within thirty (30) days following written notice from the non-defaulting party; provided that the defaulting party shall have such extended periods as may be required beyond the thirty (30) day cure period to cure any non-monetary default if the nature of the cure is such that it reasonably requires more than thirty (30) days to cure, and the defaulting party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion.

7.02 Upon the occurrence of any such Event of Default, the non-defaulting party in its sole discretion may declare this Agreement to be terminated. The parties shall have the right to commence, appear in or defend any action or proceeding arising from this Agreement, including the enforcement of parties' rights under this Agreement. If an action is instituted by either party in any court of law or equity arising from an Event of Default, the prevailing party in any final or non-appealable decision on the merits shall be entitled to recover, in addition to any judgment or decree rendered therein, all court costs, including reasonable attorneys' fees as determined by a court of competent jurisdiction.

ARTICLE 8
MISCELLANEOUS COVENANTS

8.01 Complete Agreement; Amendment; Severability. This Agreement constitutes the entire Agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein. Any amendments to this Agreement must be in writing and executed by both parties. If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

8.02 Cooperation in Execution of Documents and Approvals. Each party agrees to cooperate with the other in executing any documents necessary to protect its rights of use of the Leased Premises. During the term of this Lease, Lessor shall: (i) reasonably cooperate with Lessee in its efforts to obtain all of the certificates, permits, licenses and other approvals that Lessee, in its sole discretion, deems necessary for the permitted use of the Leased Premises ("Approvals"), including all appeals; and (ii) take no action that would adversely affect the Leased Premises. Lessor acknowledges that Lessee's ability to use the Leased Premises is contingent upon Lessee obtaining and maintaining the Approvals. If requested by Lessee, Lessor agrees to execute, at Lessee's sole cost and expense, such documents as may be necessary to obtain and thereafter maintain the Approvals, including documents necessary to petition the appropriate public bodies for the Approvals, and agrees to be named as the applicant for said Approvals.

8.03 Sexual Harassment Policy. Lessee shall have and enforce a policy prohibiting sexual harassment. Lessee's sexual harassment policy must set forth the same or greater protection than those contained or required by City Ordinance No. 93-84. City Ordinance No. 93- 84 is on file and available for viewing in the Purchasing Division, or if a copy is needed, Lessee may pick up the ordinance from the Office of the City Clerk, Room 203, City Hall, 530 S. King Street, Honolulu, Hawai'i 96813.

8.04 Assignment. This Agreement or any rights granted herein shall not be sold, assigned, conveyed, leased, subleased, mortgaged or otherwise transferred or disposed of, directly or by operation of law, except with the prior written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed, except that Lessee may assign this Lease

without Lessor's consent to any of Lessee's parent, subsidiary, or affiliated entities or pursuant to the sale of all or substantially all of the assets or stock of Lessee or pursuant to the sale of all or substantially all of the assets or operations of the division of Lessee that is operating the Facility pursuant to this Lease.

8.05 Co-locators.

(A) Lessee may sublease use of the Telecommunications Facilities and/or Leased Premises to another person or entity (each, a "Co-locator" and together, "Co-locators"), provided that Lessee obtains Lessor's prior consent to any such arrangement, which consent shall be unreasonably held, conditioned or delayed by Lessor. Lessor shall require potential Co-locators to submit an application to Lessor for approval. In addition to the Lease Fee set forth in provision 1.01(D), Lessee shall pay to Lessor a minimum of $900 per month for each approved co-locator, if no additional ground space is required.

(B) Should Co-locators require additional ground space, Lessee shall pay to the Lessor the amount per month specified in Revised Ordinances of Honolulu §38-12.3 attributable to the additional aggregate footprint used or required to support the Co-locator. Lessee may charge the Co-locators reasonable charges for use of the Lessee's Telecommunications Facilities and other improvements on the Leased Premises which are used by the Co-locators, provided that Lessee discloses all such charges to Lessor and obtains Lessor's written consent to assess such fees. If a Co-locator is terminated, Lessee shall provide prior notice of such termination to Lessor.

8.06 Assumption of Risks. It is understood that Lessee has inspected the Leased Premises and knows the conditions thereof, accepts the condition of the Leased Premises "as is", and fully assumes the risk that adverse physical conditions may not have been revealed by its investigation and all risks incident to its use.

8.07 Governing Law. The provisions of this Agreement shall be interpreted in accordance with the law of the State of Hawai'i as that law is construed and amended from time to time.

8.08 Headings. The titles of headings of sections, subsections, and paragraphs are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

8.09 Construction. All words used in the singular shall extend to and include the plural. All words used in the plural shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

8.10 Interpretation of Agreement. Except for disputes between Lessor and Lessee regarding the terms and provisions of this Agreement, or any claim that arises under Article 5 of this Agreement, if any question arises with respect to any provision of this Agreement as part of a dispute between a third party and either Lessor or Lessee, the interpretation given and made by the Director of Budget and Fiscal Services of the City and County of Honolulu, shall govern and control Lessor's interpretation.

8.11 No Party Deemed Drafter. The parties agree that neither party shall be deemed to be the drafter of this Agreement and that in the event this Agreement is ever construed by a court

of law, such court shall not construe this Agreement or any provision hereof against either party as the drafter of this Agreement, Lessor and Lessee acknowledging that both parties have contributed substantially and materially to the preparation of this Agreement.

8.12 Non-Waiver. No delay or omission to execute a right or remedy accruing to either party on any breach or default by the other party shall impair any such right or remedy, and such delays or omissions shall not be construed to be a waiver of any such future breach or default. Any waiver must be in writing and shall be effective only to the extent specifically allowed by such writing.

8.13 Successors and Assigns. All terms, covenants and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and the parties' successors and permitted assigns.

8.14 Authority of Executors. The persons who have executed this Agreement represent and warrant that they are duly authorized to execute this Agreement in their individual or representative capacity as indicated.

8.15 Counterparts. This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which shall constitute a single instrument.

[END OF TEXT, SIGNATURES ON NEXT PAGE

DRAFT

CITY AND COUNTY OF HONOLULU

_____
Andrew T. Kawano, Director
Department of Budget and Fiscal Services

"Lessor"

T-MOBILE WEST LLC,
a Delaware Limited Liability Company

By _____
Print Name _____
Print Title _____

"Lessee"

APPROVED AS TO CONTENTS:

_____
Kevin D. Auger, Director Department of
Housing and Land Management

_____
Brian McKee, Director
Department of Information Technology

APPROVED AS TO FORM AND LEGALITY:

_____

Deputy Corporation Counsel

DRAFT

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

C&C of Honolulu

On this _____ day of _____, _____, before me appeared Andrew T. Kawano, to me personally known, who, being by me duly sworn, did say that he is the Director of the Department of Budget and Fiscal Services of the **CITY AND COUNTY OF HONOLULU,** a municipal corporation of the State of Hawaii, and that the said ___-page instrument entitled TELECOMMUNICATIONS FACILITIES LEASE AGREEMENT, dated _____, was signed and sealed on behalf of said municipal corporation by authority of its City Council, and Andrew T. Kawano acknowledged that he executed said instrument to be the free act and deed of the municipal corporation. This acknowledgement is deemed to include my Notary Certification.

_____
Notary Signature

Type or print name:_____
Notary Public, First Circuit,
State of Hawaii

My commission expires:_____

[Affix Seal]

DRAFT

STATE OF _____)
) SS.
COUNTY OF _____)

On this _____ day of _____, _____, before me personally appeared _____, to me personally known, who being by duly sworn, did say that he/she is the _____ of T-Mobile West, LLC, a Delaware limited liability company and who, to me known to be the person who executed the said ___-page instrument entitled TELECOMMUNICATIONS FACILITIES LEASE AGREEMENT, undated at the time of signing, acknowledged that he/she executed the same as his/her free act and deed.

This acknowledgement is deemed to include my Notary Certification.

_____
Notary Signature

Type or print name: _____
Notary Public,
State of _____

My commission expires:_____

[Affix Seal]

DRAFT

EXHIBIT A

HARBOR COURT
LOT C

PARCEL FIRST:

That certain parcel of land situate at Kapuukolo, Honolulu, Oahu, Hawaii, described as follows:

LOT A-2, area 23,578 square feet, as shown on Map 3, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 708 of Inter-Island Steam Navigation Company, Limited.

Being a portion of the land described in Transfer Certificate of Title No. 5,339 issued to the City and County of Honolulu, a municipal corporation of the State of Hawaii.

PARCEL SECOND:

Those certain parcels of land being portions of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa, situate at Kapuukolo, Honolulu, Oahu, Hawaii, being more particularly described as follows:

PARCEL A. Beginning at the North corner of this parcel of land, being also the West corner of Parcel B, the true azimuth and distance from the end of Course 5 of Land Court Application 708 (Map 1) being 226° 29' 30" 50.00 feet, and the coordinates of said point of beginning referred to a Government Survey Street Monument set at an angle in North King Street and North of Kekaulike Street being 25.38 feet North and 165.35 feet West, as shown on Division of Land Survey and Acquisition Parcel Map File No. 7-9-2-33, and running by azimuths measured clockwise from true South:

1.	314°	36'	51.28	feet	along Parcels B and D (Alley) along remainder of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa;
2.	47°	22'	46.65	feet	along Lot 1 (Map 1) of Land Court Application 1132;
3.	132°	20'	3.05	feet	along same;
4.	75°	50'	2.23	feet	along same;
5.	132°	56'	46.50	feet	along Lot A-2 (Map 3) of Land Court Application 708;

6.	226°	29'	30"	50.00	feet	along same to the point of beginning and containing an area of 2,499 square feet.

PARCEL B. Beginning at the West corner of this parcel of land, being also the North corner of Parcel A, the true azimuth and distance from the end of Course 5 of Land Court Application 708 (Map 1) being 226° 29' 30" 50.00 feet, and the coordinates of said point of beginning referred to a Government Survey Street Monument set at an angle in North King Street and North of Kekaulike Street being 25.38 feet North and 165.35 feet West, as shown on Land Division Parcel Map File No. 7-9-2-33, and running by azimuths measured clockwise from true South:

1.	226°	29'	30"	57.34	feet	along Lot A-2 (Map 3) of Land Court Application 708;
2.	352°	40'		56.18	feet	along remainder of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa;
3.	61°	27'		3.89	feet	along Parcel D along remainder of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa;
4.	27°	20'	30"	16.90	feet	along same;
5.	83°	05'	30"	3.59	feet	along same;
6..	134°	36'		47.78	feet	along Parcel A along remainder of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa to the point of beginning and containing an area of 1,851 square feet.

Together with an easement for ingress and egress affecting the above-mentioned Parcel B from the end of Course 3, Northeasterly to King Street between the E. C. Winston and Lee Let Building, and described as follows:

PARCEL D. Being an Alley and being also a portion of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa. Situate on the Westerly side of North King Street at Kapuukolo, Honolulu, Oahu, Hawaii, being more particularly described as follows:

Beginning at the Southeast corner of this parcel of land, and on the Westerly side of North King Street, the true azimuth and distance from a Government Survey Street Monument set at an angle in North King Street and North Kekaulike Street being 128° 30' 30" 66.12 feet, as shown on Division of Land Survey and Acquisition Parcel Map File No. 7-9-2-33, and running by azimuths measured clockwise from true South:

1.	61°	05'		73.86	feet	along remainder of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa;
2.	270°	30'		14.70	feet	along same and along Lot 1 (Map 1) of Land Court Application 1132;
3.	61°	40'		6.43	feet	along Lot 1 (Map 1) of Land Court Application 1132;
4.	134°	36'		3.50	feet	along Parcel A along remainder of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa;
5.	263°	05'	30"	3.59	feet	along Parcel B along remainder of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa;
6.	207°	20'	30"	16.90	feet	along same;
7.	241°	27'		77.27	feet	along Parcel B and along remainder of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa;
8.	352°	40'		3.05	feet	along the Westerly side of North King Street to the point of beginning and containing an area of 308 square feet.

Being a portion of the land conveyed to the City and County of Honolulu, a municipal corporation of the State of Hawaii, by Exchange Deed dated March 19, 1959, recorded October 12, 1959, in the Bureau of Conveyances, State of Hawaii, in Book 3704, Page 95.

PARCEL 1. Being a portion of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa. Situate at Kapuukolo, Honolulu, Oahu, Hawaii.

Beginning at the Northwest corner of this parcel of land, being also the South corner of Lot A-1 (Map 3) of Land Court Application 708, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 283.86 feet North and 5,227.55 feet West, as shown on Division of Land Survey and Acquisition Parcel Map File No. 17-10-7-25, and running by azimuths measured clockwise from true South:

1.	226°	29'	30"	4.03	feet	along Lot A-1 (Map 3) of Land Court Application 708;
2.	352°	40'		47.29	feet	along remainder of R. P. 1088, L. C. Aw. 170 to M. Kekuanaoa;

3.	61°	27'	3.49	feet	along same;
4.	172°	40'	46.18	feet	along same to the point of beginning and containing an area of 152 square feet.

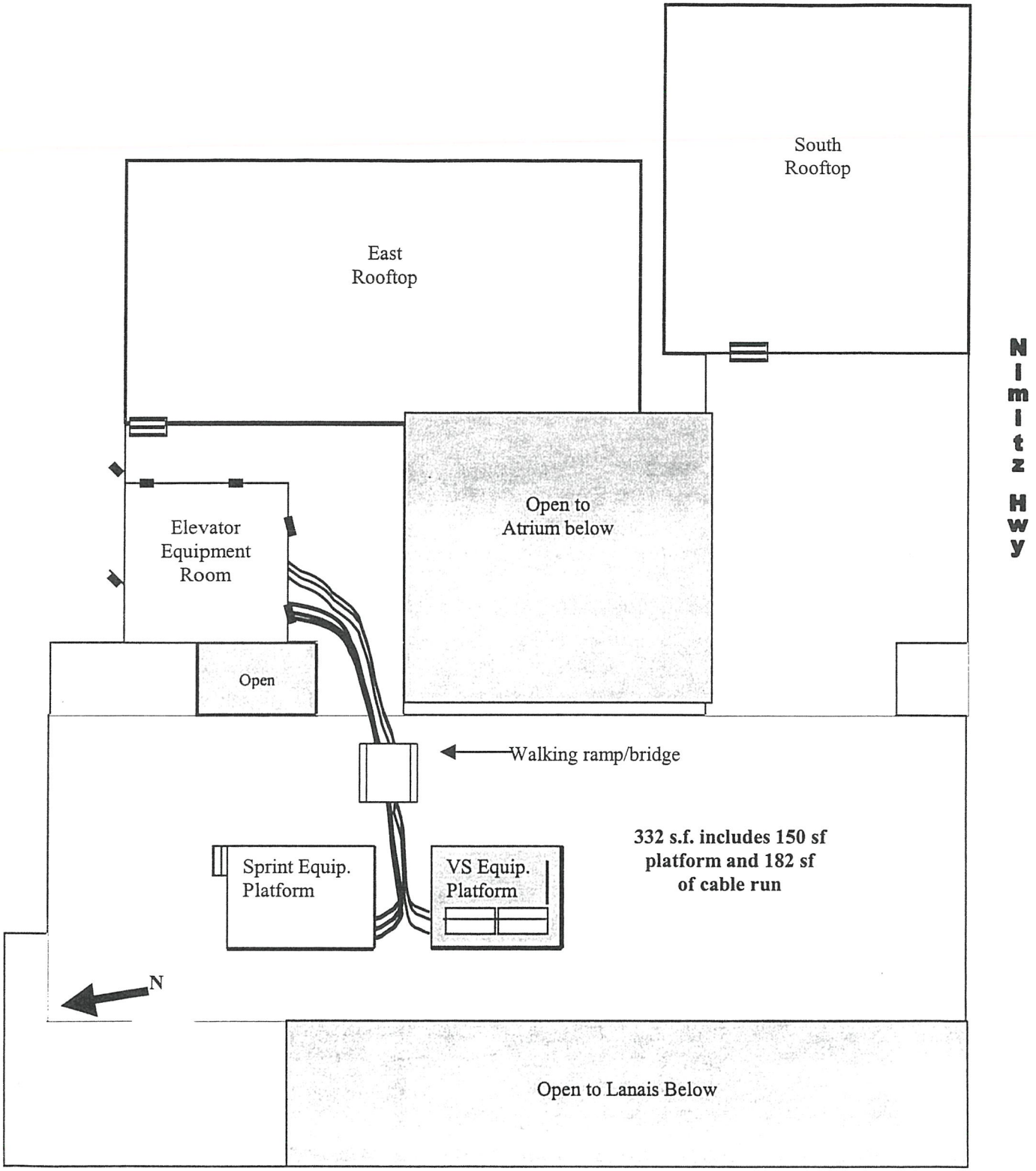
Description Compared
and Checked
Division of Land Survey
and Acquisition

DRAFT

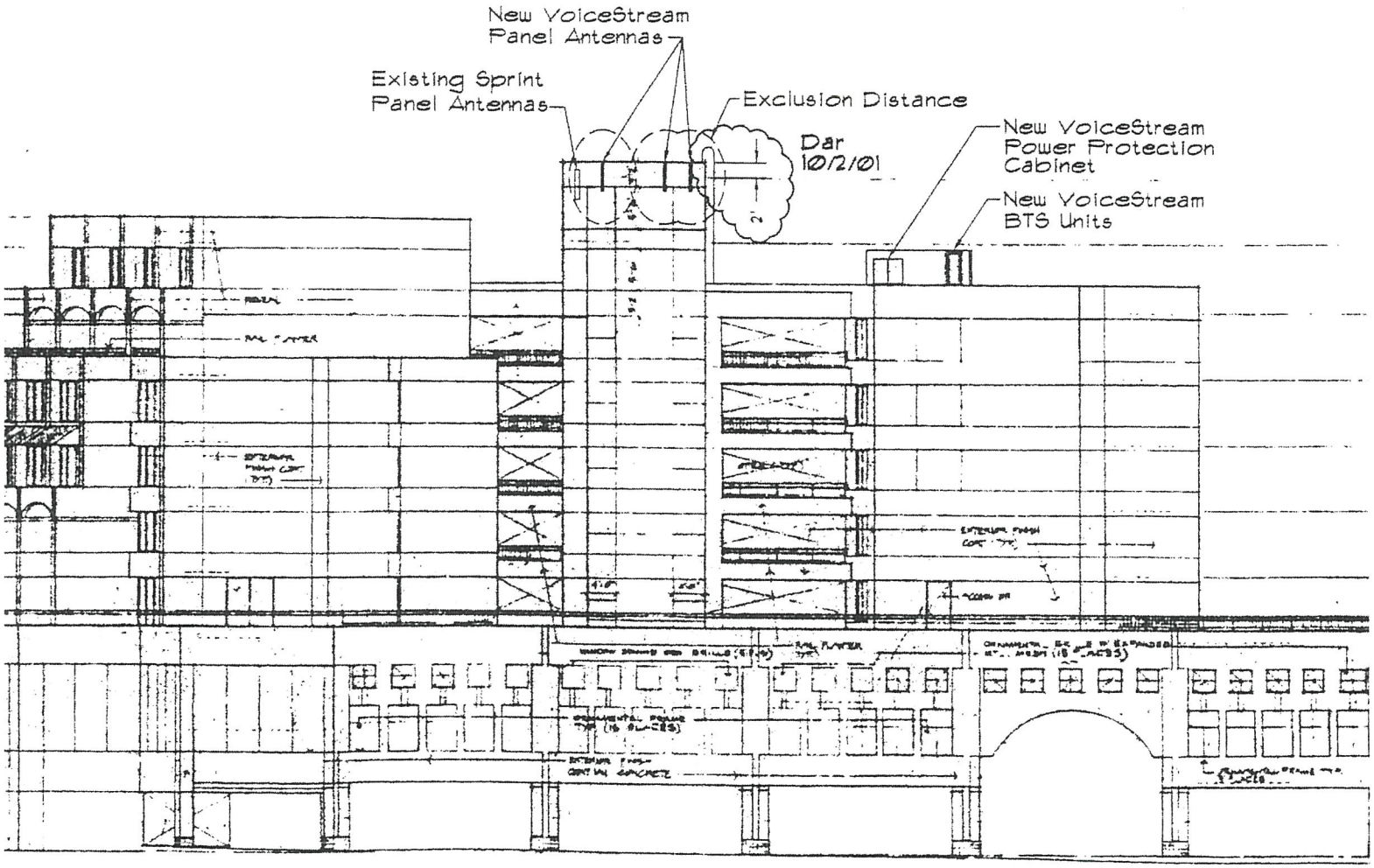
EXHIBIT B

VOICESTREAM Project Site Plan

Site Candidate Information Packet



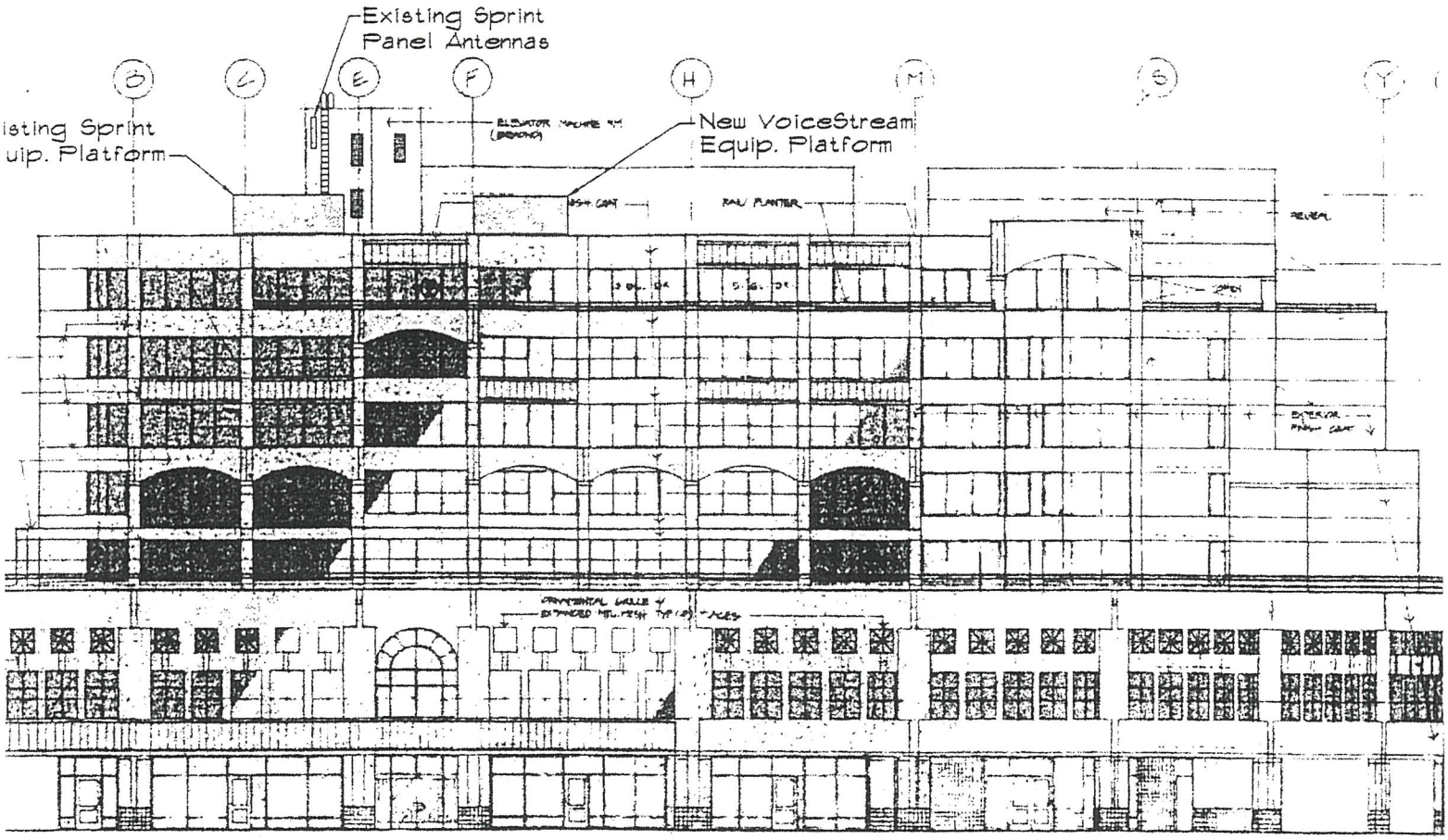
HARBOR VILLAGE
Downtown West
HI-2063D
Site Plan 1



1
S-2

Mauka Elevation

Scale : 1/16" = 1'-0"



2 River St. Elevation