



Cayman Corporate Centre, 4th Floor, Hospital Road
P.O. Box 704 GT, Grand Cayman, Cayman Islands
Tel: (345) 769-1000 • Fax: (345) 769-0999



4 April 2008

Mr. David Archbold
Managing Director
Information and Communications Technology Authority
Grand Cayman, Cayman Islands

Dear Sir,

**Re: Determination Request/Infrastructure Sharing/Dispute Resolution
Regulations**

TeleCayman Limited (TeleCayman) formally submits an Application to the Authority for a Determination Request in accordance with section 3(4) of The Information and Communications Technology Authority (Dispute Resolution) Regulations, 2003 (Dispute Resolution Regulations) for an Order that the Government of the Cayman Islands make duct space available at a cost oriented rate for purpose of the accommodating fibre in accordance with section 6(k) of The Information and Communications Technology Authority (Interconnection and Infrastructure Sharing) Regulations, 2003 (Infrastructure Sharing Regulations). Attached is the sum of \$750.00 as prescribed by the Regulations.

TeleCayman wishes to establish a fibre ring for most of the Georgetown core as numerous opportunities exist with business customers who would subscribe to various services if such fibre were present. Also, it would be advantageous to TeleCayman, from a financial and technology perspective, to own its own fibre in the area where most business customers are present.

TeleCayman has been discussing with the Computer Services Department of the Cayman Islands Government for several months access to its duct space for purposes of having its own fibre in such duct space. All to no avail. Accordingly, TeleCayman formalized its request to the Cayman Islands Government for such duct space in conformity with section 3(1) of the Dispute Resolution Regulations (copy attached to the enclosed Affidavit) in a letter dated 21 February 2008 and delivered 22 February

2008. As noted therein, TeleCayman is prepared to have Computer Services choose a contractor of its choice for the installation of fibre so as to ensure the Cayman Islands Government could address all concerns pertaining to safety, security, technical and engineering considerations.

TeleCayman received an e-mail in response to its request from the Cayman Islands Government refusing duct space stating that it would consider 'leasing of dark fibre not ducting' as it is 'not able to lease ducts ...because smaller 2 inch pipes cannot be sub ducted easily'. The Cayman Islands Government provided further correspondence 26 March 2008 indicating a formal response would be provided early in the week of 31 March 2008. To date, TeleCayman has not received any further written response. TeleCayman notes that, in accordance with the Dispute Resolution Regulations, any and all responses should have been provided by the Cayman Islands Government by no later than 21 March 2008. TeleCayman respectfully submits it has made good faith and reasonable efforts for obtaining duct space from the Cayman Islands Government in accordance with the Infrastructure Sharing Regulations.

Essentially, the Cayman Islands Government is prepared to hire a contractor to run separate dark fibre in its duct space for TeleCayman Limited provided it makes it available on a lease basis. From a financial (capital investment as opposed to ongoing expense), technology (ownership is preferable permitting the ability to manipulate such fibre technology) and business perspective (business customers are able to appreciate the nuance associated with fibre ownership) it is essential that TeleCayman Limited acquire duct space whereby it will own the dark fibre.

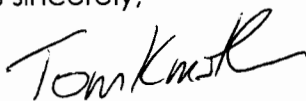
The only significant difference between the Cayman Islands Government proposal and the TeleCayman preference is that TeleCayman will own the fibre. In all other respects, such as the duct space utilized and the contractor employed the considerations are similar. Further, provided it own the dark fibre in the duct space requested, TeleCayman is prepared to accommodate the Cayman Islands Government as to safety, security and technical considerations. It is respectfully submitted that the Order requested by TeleCayman is in accord with the spirit, language and intent of the Infrastructure Regulations.

TeleCayman notes that, quite apart and distinct from the legal obligation to share infrastructure as stated in the Law and Regulations, the Cayman Islands Government has a licence obligation to provide infrastructure. The Cayman Islands Government obtained a Type 11 Licence to provide ICT Infrastructure. Arguably, in not providing duct space the Cayman Islands Government is in breach of its Licence.

The exigencies of section 5 of the Dispute Resolution Regulations are set forth in the attached Affidavit of Tom Kinstler.

TeleCayman respectfully request that an the Authority issue an Order requiring the Cayman Islands Government to make duct space available at a cost oriented rate. In order to expedite matters TeleCayman requests that if the Cayman Islands Government does not submit, as part of these proceedings a reasonable basis for such rate, that the Authority makes a determination as to the appropriate rate.

Yours sincerely,



Philip Brazeau
Consultant to TeleCayman Limited

Cc Mr. Gilbert McLaughlin
Director,
Computer Services Department
Government Administration Building
Grand Cayman, Cayman Islands



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I, Thomas Kinstler, of Grand Cayman, Cayman Islands, MAKE OATH AND SAY AS FOLLOW:

1. I am currently employed with TeleCayman Limited (TeleCayman) and have either personal knowledge of the matters which follow or have been informed by reliable sources and believe them to be true and accurate.
2. TeleCayman has its place of business at Cayman Corporate Centre, 4th Floor Hospital Road, Grand Cayman, Cayman Islands and is licensed, pursuant to Licence 009 issued 29 October 2003, to provide telecommunication services in the Cayman Islands. The Government of the Cayman Islands has its place of business at the Government Administration Building, Grand Cayman, Cayman Islands, and is licensed, pursuant to Licence 016 issued 10 May 2004 to provide telecommunication services in the Cayman Islands.
3. The Licence issued to the Cayman Islands Government specifically includes a licence to make ICT Infrastructure available.
4. Both TeleCayman and the Cayman Islands Government are subject to the Information and Communications Technology Authority (Interconnection and Infrastructure Sharing) Regulations, 2003 (Infrastructure Sharing Regulations).
5. TeleCayman has been discussing with the Computer Services Department of the Cayman Islands Government for several months access to its duct space for purposes of having its own fibre in such duct space. TeleCayman was unable to obtain such duct space.
6. TeleCayman formalized its request to the Cayman Islands Government for such duct space (copy attached as Exhibit "A") in a letter dated 21 February 2008 and delivered 22 February 2008. As noted therein, TeleCayman is prepared to have Computer Services choose a contractor of its choice for the installation of fibre. This is to accommodate concerns the Cayman Islands Government may have with respect to safety, security, technical and engineering matters. TeleCayman remains committed to discuss and address any concerns related to these matters.
7. TeleCayman received an e-mail dated 26 February 2008 (copy attached as Exhibit "B") in response to its request from the Cayman Islands Government refusing duct space stating that it would consider 'leasing of dark fibre not ducting' as it is 'not able to lease ducts ...because smaller 2 inch pipes cannot be sub ducted easily'. The Cayman Islands Government provided further correspondence 26 March 2008 indicating a formal response would be provided early in the week of 31 March 2008 (copy attached as

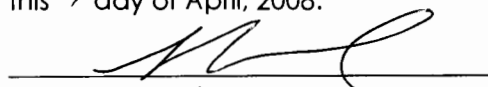
Exhibit "C"). The Cayman Islands Government has not provided any further written response to the 21 February 2008 request.

8. The discussions with the Cayman Islands Government and its written response indicate that it is prepared to run additional dark fibre in its conduits for TeleCayman provided it retain ownership. The primary distinction with the TeleCayman proposal for duct space is that TeleCayman would retain ownership. This makes sense from a financial perspective as it is preferable to incur a capital cost as opposed to an ongoing expense. Also, from a commercial perspective, business customers are more likely to subscribe to services with a service provider which owns its infrastructure as opposed as to leasing it from another service provider.
9. I am informed (but have no direct knowledge) that many of the current conduit to various buildings housing Government offices will become redundant with the relocation of Government offices to a new central location. There currently exists redundant conduit such as the conduit to the UBS building which no longer houses Government offices.
10. Attached as Exhibit "D" is what I believe to be a reasonably accurate schematic of the duct ring owned by the Cayman Islands Government in the Georgetown area to which TeleCayman requests infrastructure sharing for purposes of running dark fibre.
11. I am informed (but have no direct knowledge) that duct space owned by the Cayman Islands Government in the Georgetown area is, in large part, a 4 inch conduit and that the smaller 2 inch conduit pertains to a route along West Bay Road. This 2 inch duct may accommodate additional fibre. If this 2 inch conduit cannot accommodate additional dark fibre, duct space is likely available from Cable & Wireless along this route.
12. This Affidavit is made in support of an Application for a Determination Request by the Authority for an Order that the Cayman Islands Government is required to provide duct space to TeleCayman and that it does so at a cost oriented rate.
13. TeleCayman undertakes to abide by an Order of the Authority with respect to costs in the event such should be issued to support a finding adverse to its interests.


Thomas Kinstler

Sworn before me at Grand Cayman, Cayman Islands

this 4th day of April, 2008.


NOTARY PUBLIC
A Commissioner of Oaths



Cayman Corporate Centre, 4th Floor, Hospital Road
P.O. Box 704, Grand Cayman KY1-1107, Cayman Islands
Tel: (345) 769-1000 • Fax: (345) 769-0999

COPY

A

21 February 2008

Mr Gilbert McLaughlin Sr.
Director
Computer Services Department
Government Administration Building
Grand Cayman, Cayman Islands

Dear Mr McLaughlin,

Infrastructure Sharing/Duct Space

This correspondence is to formally advise you, in accordance with the Interconnection and Infrastructure Sharing Regulations, that TeleCayman Limited wishes to lease duct space within your conduits.

I appreciate that we have had various discussions with your staff concerning the availability of duct space and that the department's preference may be to provide dark fiber as an alternative. We will pursue discussions for such fiber. However, without prejudice, our preference is to lease duct space so that TeleCayman can own its own fiber.

In this regard we are formalizing our request pursuant to the Interconnection and Infrastructure Sharing Regulations in the event that it is necessary to have the Information and Communications Technology Authority make an order requiring you to make duct space available.

As you are aware, the attached referenced Regulations provide that a licensee shall not refuse a request for infrastructure sharing arrangements and has an obligation to negotiate such arrangements; that such arrangements shall be concluded as quickly as possible, in good faith, and at reasonable rates (cost oriented), on terms which are no less favorable than those provided to yourself or

any other third party. As you are also aware there are serious penalties for refusing to conclude a sharing arrangement.

In accordance with section 8 of the referenced Regulations:

1. TeleCayman is making this request in accordance with its Licence #009;
2. TeleCayman requests duct space to run its own dark fiber cable;
3. At this juncture, TeleCayman proposes to lease duct space in all of your conduits. In order to particularize its duct space request TeleCayman requests a map of all duct space owned by you.
4. The duct space is required at the earliest possible date.
5. It is not anticipated that TeleCayman will require any further duct space over the course of the next 3 years.

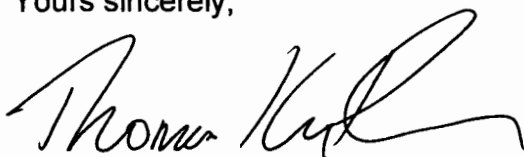
Enclosed is a deposit of \$2,000 required by the regulations which TeleCayman expects will be applied to its request and to the cost of acquiring such duct space.

In order to facilitate matters TeleCayman is prepared to engage a contractor of your choice to install the fiber provided that the price is reasonable and the work can be accomplished with due dispatch having regard to minimizing any disturbance to your operations.

Additionally, we request that you provide the size of the ducts and the number of fibers within so that we can address any argument based on space limitations.

We would request that you provide the requested map forthwith, the name of the recommended contractor and duct size/number of fibers and proposed rates at the earliest possible date. We propose a meeting(s) to advance discussions on our request. In this regard please communicate with either Andy Tybell or Bob Kanner.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Tom Kinstler", written in a cursive style.

Tom Kinstler
TeleCayman Limited

Cc David Archbold, Managing Director, Information and Communications
Technology Authority

interconnection or infrastructure sharing agreement between the two parties;

- (l) any disputes relating to interconnection and infrastructure sharing shall be referred to the Authority under the Dispute Resolution Regulations; and
- (m) failure to comply with any provision of these regulations shall be, among other remedies available under the Law or the licensee's licence, subject to the penalty provisions in regulation 30.

Legal framework document

7. (1) Each licensee shall file an indicative non-binding legal framework document with the Authority within the time period specified in its licence and, if not so specified, upon receipt of a request by a requestor to obtain interconnection or infrastructure sharing services.

(2) The Authority may, in its discretion, direct a licensee to amend the legal framework document to reflect the terms of its licence, relevant rules, regulations, decisions, directives or standards and other guidelines that the Authority may prescribe; and the Authority may also require the licensee to publish and use the legal framework document and other documents, in negotiation with requestors.

(3) Interconnection and infrastructure sharing agreements shall be based upon the Law and the terms of the responder's legal framework document.

(4) A legal framework document shall set out, at a minimum, the interconnection or infrastructure sharing services and the commercial terms and conditions under which such services shall be provided by a responder.

(5) The interconnection or infrastructure sharing services detailed in the legal framework document shall be sufficiently unbundled to ensure that a requestor is not required by a responder to acquire network elements or infrastructure sharing services that are either not required or have not been requested.

(6) Information contained in a legal framework document shall not be designated as confidential.

(7) The Authority may require a responder to make available the entire legal framework document in electronic format to any person without any restriction.

Rights and obligations

8. (1) Licensees shall have a right and, when requested by other licensees, an obligation to negotiate interconnection and infrastructure sharing services in

order to ensure the provision and interoperability of services throughout the Islands.

(2) A request for a quotation to provide interconnection or infrastructure sharing services shall contain at least the following information-

- (a) the reference number of the requestor's ICT licence;
- (b) a technical description of the requested services;
- (c) locations;
- (d) dates required; and
- (e) projected quantities to be ordered with a period of 3 years forecast.

(3) A requestor shall be responsible for the reasonable costs incurred by the responder in processing the request, and shall include with the request a non-refundable deposit of \$2000 or such other amount as specified from time to time by the Authority.

(4) Requests may be cancelled at any time by the requestor.

(5) The responder shall acknowledge receipt of each request no later than 3 days following receipt of the request; and the responder shall provide the Authority, with a copy of the original request and the acknowledgement receipt.

(6) The responder shall consider and analyse each request and advise the requestor within 14 days of the acknowledgement of receipt of the request, or such other time period as agreed between the parties of-

- (a) the need for any further information for purposes of having a sufficiently complete and accurate request; or
- (b) that the request is sufficiently complete and accurate to provide a quotation.

(7) The responder shall provide a quotation as quickly as possible and in any event no later than 30 days, or within such other time period as agreed between the parties, after receipt of a complete and accurate request.

(8) Where the responder denies a request, the responder shall provide detailed written reasons for such denial to the requestor within 20 days of the receipt of a complete and accurate request.

(9) A quotation shall contain all information required by the requestor to fully consider the rates, terms and conditions for obtaining the requested services, including the following minimum information-

- (a) date of availability;
- (b) installation intervals;
- (c) applicable rates;
- (d) request development and processing costs; and
- (e) other such necessary terms and conditions required to effect interconnection or infrastructure sharing.

(10) Within 20 days of the receipt of the quotation, or such other time period as agreed between the parties, the requestor and responder shall undertake good faith negotiations to resolve any outstanding matters for purposes of producing an interconnection or infrastructure sharing agreement.

(11) For the purposes of paragraph (10), the following actions or practices violate the obligation to act in good faith-

- (a) refusing to include in an interconnection or infrastructure sharing agreement a provision that permits the agreement to be amended in the future to take into account applicable changes to the laws rules and regulations of the Islands and to the determinations and court decisions of the Authority;
- (b) intentionally misleading or coercing another party into reaching an agreement that it would not otherwise have made;
- (c) intentionally refusing to provide or delaying the provision of information necessary to reach an agreement;
- (d) obstructing or delaying negotiations, the provision of services according to a final interconnection or infrastructure agreement, or the resolution of pre-contract disputes; and
- (e) refusing to designate a representative with the Authority to make binding representations, if such refusal significantly delays the resolution of issues.

(12) At any stage of negotiations, either party may declare a dispute and refer the matter to the Authority under the Dispute Resolution Regulations; and the Authority may consider such requests under an expedited process in accordance with the Dispute Resolution Regulations.

(13) An agreement between the responder and the requestor shall be concluded within 30 days of the commencement of negotiations or such other time period as they have agreed.

Rate structure

9. The rates offered by the responder to the requestor shall clearly identify all charges for interconnection or infrastructure sharing.

Butterfield Bank (Cayman) Limited
P. O. Box 705GT
Grand Cayman
Cayman Islands

Draft Amount:

CIS 2,000.00*****

PAYEE COPY - FOR REFERENCE AND FILE

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Butterfield Bank



Butterfield Bank (Cayman) Limited
and Cayman, Cayman Islands




February 21, 2008


325637

PAY TO THE ORDER OF
CIG COMPUTER SERVICES DEPARTMENT
Two Thousand and no/100*****

CIS **2,000.00*******
CAYMAN DOLLARS

Butterfield Bank (Cayman) Limited
P. O. Box 705GT
Grand Cayman
Cayman Islands

BY 
AUTHORIZED SIGNATURE

BY 
AUTHORIZED SIGNATURE

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Tom Kinstler

From: Howell, Wesley [Wesley.Howell@gov.ky]
Sent: Tuesday, February 26, 2008 9:52 AM
To: Tom Kinstler; Andy Tybell
Cc: McLaughlin, Gilbert
Subject: Leasing discussions

Hi Tom and Andy,

I was forwarded some an email regarding telecayman leasing of duct space from Government from the Director of CSD. I am writing to confirm that we are considering leasing of dark fibre not ducting. As we discussed we are not able to lease ducts because our smaller 2 inch pipes cannot be sub-ducted easily as is the case with Cable and Wireless.

Therefore essentially we are willing to look at options of leasing you dark fibre, along the lines of what we are already doing with the fibre run you lease between Cayman Corporate and the tower by Radio Cayman.

Thanks,

Wes

Wesley Howell, MBA
Deputy Director
Computer Services Department
Cayman Islands Government
Ph: 345 244 2329
Fx: 345 947 4924

C

Tom Kinstler

From: Howell, Wesley [Wesley.Howell@gov.ky]
Sent: Wednesday, March 26, 2008 4:29 PM
To: Tom Kinstler
Cc: McLaughlin, Gilbert
Subject: RE: Leasing discussions

Hi Tom,

We have conducted a preliminary route survey and are currently working on a formal response back to TeleCayman.

I would expect you have the response by early next week.

Regards,

Wesley

Wesley Howell, MBA | Deputy Director | Computer Services Department | Cayman Islands Government
Office: 345.949.8277 | Direct: 345.244.2329 | Fax: 345.947.4924 | wesley.howell@gov.ky | www.gov.ky

From: Tom Kinstler [mailto:Tom.Kinstler@telecayman.com]
Sent: Wednesday, 26 March, 2008 4:27 PM
To: Howell, Wesley
Cc: McLaughlin, Gilbert
Subject: RE: Leasing discussions

Hi Wesley,

as far as I am aware, we have not received any other correspondence from your department in reponse to our request. Could you confirm that this is the case.

regards

Tom

*Tom Kinstler
Financial Controller
TeleCayman Ltd*

*For Couriers
4th Floor
Cayman Corporate Centre
27 Hospital Road*

4/3/2008

CAYMAN ISLANDS

Tel: + 1 345 769 1000
Mobile: + 1 345 926 0866
Fax: +1 345 769 0999

tom.kinstler@telecayman.com

From: Howell, Wesley [mailto:Wesley.Howell@gov.ky]
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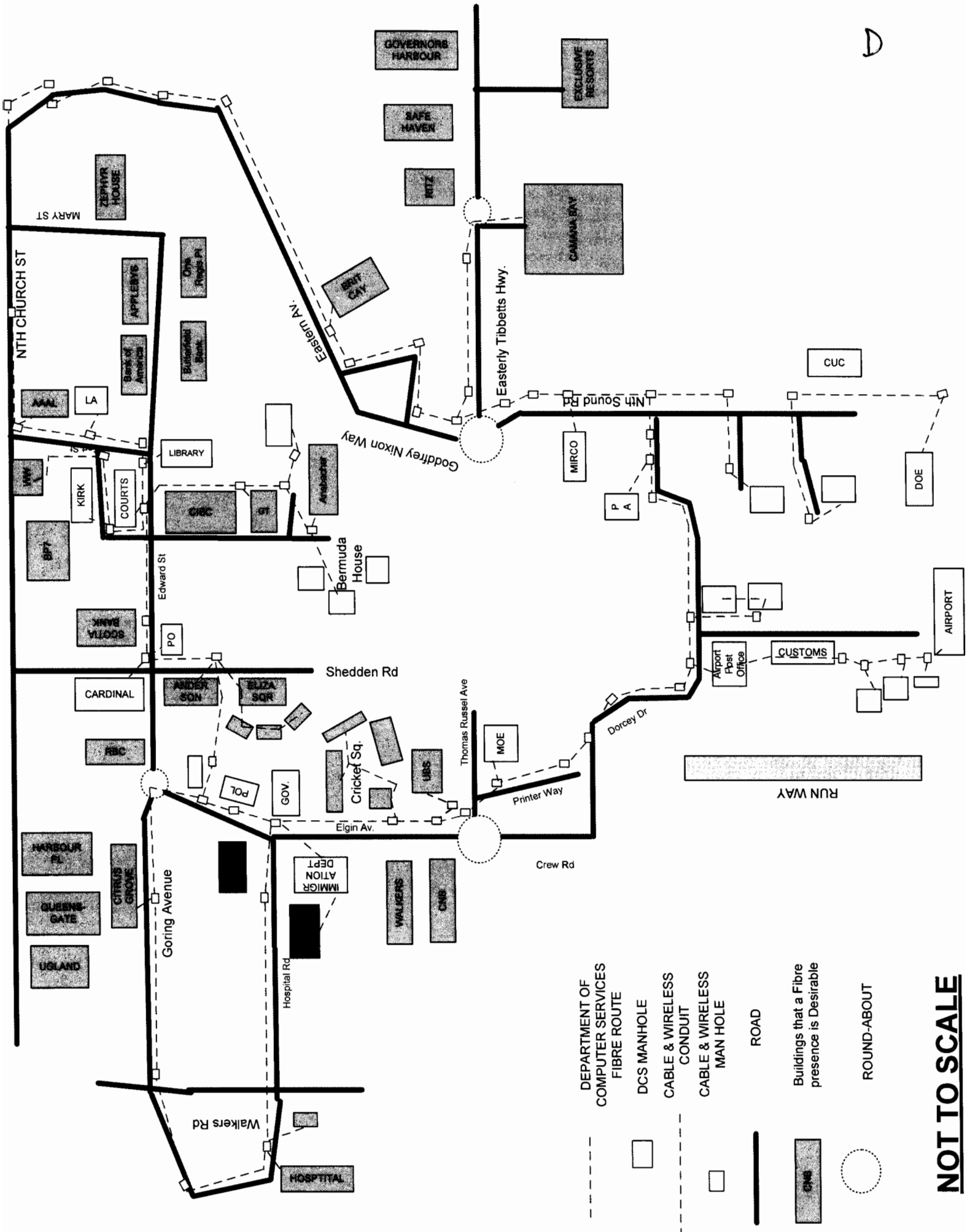
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Thanks,

Wes

Wesley Howell, MBA
Deputy Director
Computer Services Department
Cayman Islands Government
Ph: 345 244 2329
Fx: 345 947 4924



- DEPARTMENT OF COMPUTER SERVICES FIBRE ROUTE
- DCS MANHOLE
- CABLE & WIRELESS CONDUIT
- CABLE & WIRELESS MAN HOLE
- ROAD
- Buildings that a Fibre presence is Desirable
- ROUND-ABOUT

NOT TO SCALE

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Butterfield Bank



April 04, 2008

326361

Butterfield Bank (Cayman) Limited
Grand Cayman, Cayman Islands

PAY TO THE ORDER OF ICTA

Seven Hundred Fifty and no/100*****

CIS 750.00*****
CAYMAN DOLLARS

[Handwritten Signature]

BY _____ AUTHORIZED SIGNATURE

Butterfield Bank (Cayman) Limited
P. O. Box 705GT
Grand Cayman
Cayman Islands

[Handwritten Signature]

BY _____ AUTHORIZED SIGNATURE

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