

# Frequently Asked Questions: Request For Proposals for the Lease/License of County Property for Wireless Telecommunications Purposes

## **Question 1:**

Can you please verify that only section VII Proposal Requirements from page 7- and to the top part of 9 needs to be completed? There are forms located in the back portion of the proposal that look like they need to be completed. Specifically XV proposer certification (p.13) and the Acknowledgement (p.14). Do these items need to be included in the preliminary proposal submittal?

Does the county have a specific form for the fee proposal? How would you like this submitted?

There are also other sections I am not sure if they are required in the preliminary proposal:

Schedule A  
Schedule B  
Schedule C  
Licensee Certification

Kindly confirm if all sections are needed for the submittal of the preliminary proposal or if it is only specifically VII Proposal Requirements from page 7- and to the top part of 9. I would like to be sure I do not miss any documents that are required in this package.

## **Answer 1:**

The following are required to be submitted in response to the RFP:

Section II(A)- submit preliminary proposals consistent with Section I(A) or I(B) and include a preliminary description of any equipment or structures proposed for installation at the site.

Section VII "Proposal Requirements" - complete entire section.

Also complete Section XI if deemed necessary by proposer, Section XII and Schedule "B", Section XIII and Schedule "D" and Section XV, along with the Acknowledgment and relevant Certificate of Authority.

Note that the Schedule pertaining to Criminal Background Disclosure does not need to be completed at this time.

## **Question 2:**

Can you please provide the list of existing County-owned Wireless Telecommunications Sites Identified in section I (A)?

## **Answer 2:**

Per Section I(A) of the RFP, Proposers that requested a copy of this list were provided with a copy.

## **Question 3:**

Can you please provide a list or map or both of ALL County-owned properties including those properties which do not currently have a "facility" or structure thereon?

**Answer 3:**

Due to the number of requests for a list of County-owned properties, the County has decided to make available the 2009 list of County-owned properties, noting that this list has not been updated since then. Proposers who are interested in obtaining a copy of a list of County-owned properties may email the Contact Person identified in the RFP Notice.

**Question 4:**

Please also include any easements or right-of-ways owned by the County.

**Answer 4:**

The County does not maintain such a list.

**Question 5:**

Can you please provide a sample form of the license agreement as identified in section III (a)?

**Answer 5:**

Per Section III(a) of the RFP, Proposers that requested a copy of this were provided with a copy.

**Question 6:**

Can you please provide a copy of the "County's Radio Site Application Form" identified in section II (B)?

**Answer 6:**

Due to the number of requests for a copy of the County's Radio Site Application Form, the County has decided to make the form available. Proposers who are interested in obtaining a copy of the County's Radio Site Application form may email the Contact Person identified in the RFP Notice.

**Question 7:**

Section V and VI indicate that the successful proposal shall comply with all applicable local zoning, site plan approvals and similar land use requirements. Does the County intend where possible to exempt itself from local zoning requirements?

**Answer 7:**

The County cannot exempt itself or its lessees or licensees from local zoning. Whether local zoning applies to a County activity is subject to a balancing of interests test described by the New York Court of Appeals in the Matter of Monroe County v. City of Rochester, 72 N.Y.2d 338 553 N.Y.S. 2d 702 (1988) where the New York Court of Appeals held that the Monroe County airport was not subject to the zoning regulations of the City of Rochester. If a proposal is primarily for private interests, it is unlikely to trigger the balancing test criteria and local zoning would apply.

**Question 8:**

Does the County intend to use the current Radio Site License Agreement as a template for new sites?

**Answer 8:**

The County anticipates using this agreement as a starting point, however, reserves the right to make changes.

**Question 9:**

For the portion of the RFP that addresses construction of new facilities on County property, what is the maximum term length that the County is willing to agree to?

**Answer 9:**

In general, the County's current license agreements contain a five (5) year term. Each proposal will be evaluated on its merits. The County is not averse to potentially entering into an agreement for terms in excess of the standard five year term.

**Question 10:**

For the portion of the RFP that addresses construction of new facilities on County property, is the County willing to eliminate its right to "terminate the Agreement" or require modification of Licensee's Equipment?

**Answer 10:**

In general, the County's current license agreements contain broad termination/modification rights. Each proposal will be evaluated on its merits. The County is not averse to potentially entering into an agreement which modifies the broad language referred to. However, it should be noted, that a true license agreement necessarily contains the ability of the licensor to terminate at will.

**Question 11:**

For the portion of the RFP that addresses construction of new facilities on County property, is the County willing to eliminate its right to relocate the Equipment to a different site?

**Answer 11:**

In general, the County's current license agreements contain the right to relocate equipment to a different site to protect the County's right to control its facilities and structures. Where a facility is built on an existing County-owned wireless telecommunications site, the County will require the right to relocate the equipment. The County may, however, be willing to discuss curtailing or eliminating this right where a facility is proposed to be constructed on County-owned property that is not currently being used for wireless telecommunications purposes. Each proposal will be evaluated on its merits. The determination whether to curtail or eliminate that right will depend on the nature of the proposal.

**Question 12:**

For the portion of the RFP that addresses construction of new facilities on County property, is the County willing to clarify access rights?

**Answer 12:**

The County will address specific access rights for each property during contract negotiations.

**Question 13:**

For the portion of the RFP that addresses construction of new facilities on County property, is the County willing to consider the argument that the County is exempt for other local governments zoning approval procedures?

**Answer 13:**

Successful proposers are responsible for complying with local zoning as applicable. See answer to number 7 above.

**Question 14:**

For the portion of the RFP that addresses construction of new facilities on County property, is the County willing to eliminate the County's right to terminate for any reason?

**Answer 14:**

In general, the County's current license agreements contain a County right to terminate for any reason. The County's typical form of agreement for these purposes is a license. To be a true license agreement, the County must be able to terminate at will. Section III(a) of the RFP states that the agreement will take the form of a license, but notes specifically that leases will be considered. Each proposal will be evaluated on its merits. The County is not averse to potentially entering into a lease agreement which contains different termination provisions. However, see section III(e) of the RFP regarding the legal issues concerning leases of parkland.

**Question 15:**

For the portion of the RFP that addresses construction of new facilities on County property, is the County willing to give Licensee termination rights?

**Answer 15:**

If a proposal is submitted that requests granting a licensee the right to terminate, the County will review the proposal in its entirety and give due consideration to the request in relation to the overall proposal.

**Question 16:**

For the portion of the RFP that addresses construction of new facilities on County property, is the County willing to broaden Licensee's assignment and subletting rights?

**Answer 16:**

If a proposal is submitted that requests granting Licensee the right to assign and sublet, the County will review the proposal in its entirety and give due consideration to the request in relation to the overall proposal.

**Question 17:**

I would like to request further information regarding your existing communications facilities. We would need the coordinates for these locations and the type and height of the structure.

**Answer 17:**

The coordinates for these locations and the type and height of the structure are included on the County-owned Wireless Telecommunications Sites list which is available upon request by emailing the Contact Person identified in the RFP Notice.