



**REQUEST FOR QUALIFICATIONS (RFQ) No.  
For  
FACILITY TOWERS FOR VARIOUS COUNTY DEPARTMENTS**

**PRE-PROPOSAL CONFERENCE TO BE HELD:**

\_\_\_\_\_, 2011 at 10:00 AM (Local Time)  
111 NW 1<sup>st</sup> Street, 10<sup>th</sup> Floor, Conf. Rm. 1010, Miami, Florida 33128

**ISSUED BY MIAMI-DADE COUNTY:**

Department of Procurement Management (DPM)  
for the  
Miami-Dade County Park and Recreation Department and Various Other County Department

Contact Person: Fred Simmons, CPPO, Senior Procurement Contracting Officer  
111 NW 1<sup>st</sup> Street, Suite 1300, Miami, Florida 33128  
E-mail: [fred@miamidade.gov](mailto:fred@miamidade.gov)  
Telephone: (305) 375-4259

**PROPOSALS ARE DUE AT THE CLERK OF THE BOARD NO LATER THAN:  
September 2, 2011 at 2:00 PM (local time)**

at  
CLERK OF THE BOARD  
Stephen P. Clark Center  
111 NW 1<sup>st</sup> Street, 17<sup>th</sup> Floor, Suite 202  
Miami, Florida 33128-1983

The Clerk of the Board business hours are 8:00 a.m. to 4:30 p.m., Monday through Friday. Additionally, the Clerk of the Board is closed on holidays observed by the County.

All proposals received and time stamped by the Clerk of the Board prior to the proposal submittal deadline shall be accepted as timely submitted. The circumstances surrounding all proposals received and time stamped by the Clerk of the Board after the proposal submittal deadline will be evaluated by the procuring department in consultation with the County Attorney's Office to determine whether the proposal will be accepted as timely. Proposals will be opened promptly at the time and date specified. The responsibility for submitting a proposal on or before the stated time and date is solely and strictly the responsibility of the Proposer. The County will in no way be responsible for delays caused by mail delivery or caused by any other occurrence. All expenses involved with the preparation and submission of proposals to the County, or any work performed in connection therewith, shall be borne by the Proposer(s).

The submittal of a proposal by a Proposer will be considered by the County as constituting an offer by the Proposer to perform the required services at the stated prices. A Proposer may submit a modified proposal to replace all or any portion of a previously submitted proposal up until the proposal due date. The County will only consider the latest version of the proposal.

Requests for additional information or inquiries must be made in writing and received by the County's contact person for this Solicitation. The County will issue responses to inquiries and any changes to this Solicitation it deems necessary in written addenda issued prior to the Proposal Due Date. Proposers who obtain copies of this Solicitation from sources other than the County's Department of Procurement Management website at [www.miamidade.gov/dpm](http://www.miamidade.gov/dpm) or the Vendor Assistance Unit risk the possibility of not receiving addenda and are solely responsible for those risks.

## 1.0 PROJECT OVERVIEW AND GENERAL TERMS AND CONDITIONS

### 1.1 Introduction

Miami-Dade County is soliciting proposals from qualified vendors for the installation of Facility Tower(s) supporting improved public safety, security and communication needs for County residents within select County sites. This solicitation will result in revenue generating contracts. The cellular market continues to expand with more demand for cell tower installations. The County seeks to take advantage of its diverse park locations, and other properties throughout the County to allow the installation of towers that will not have an adverse aesthetic impact on county properties. Towers will be placed at selected park and other County locations. In consideration of vendors using County property to locate towers and receive revenue from transmission enhancements of the tower antennas, the County will receive: 1) ground license fees; 2) a share of the revenue generated through sub-licenses of antennas; 3) free installation of wireless internet, advance lighting protection and security cameras throughout the park locations; and 4) space for Enterprise Technology Services Department (ETSD) to install 4G LTE communication equipment to support police, fire and other first responders.

### 1.2 BACKGROUND

Miami-Dade County is the largest county in the State of Florida serving over 2.4 million residents and visitors. It includes unincorporated areas of the County and 36 municipalities, among them the cities of Miami, Miami Beach, Coral Gables, and Hialeah. The Miami-Dade County Parks & Recreation Department is a three-time National Gold Medal Award winner (AAPRA and NRPA), a 2009 Florida Governor's Sterling Award winner, and the only municipal park system its size, serving a residential population of nearly 2.4 million people to be awarded National Accreditation from the Commission on Accreditation of Park & Recreation Agencies.

### 1.3 OBJECTIVE

This solicitation is presented in two parts: A and B:

- 1) Part A establish a pool of qualified vendors to install facility cell towers at selected County sites. The pool will be open to add county sites, and to add additional vendors that meet the qualification criteria established in this solicitation. (See PART A - Section 1.8: POLL MEMBERSHIP AND STRUCTURE.) To be eligible for consideration as a pool member, the proposer must submit its qualifications as specified in this solicitation.
- 2) Part B requests proposals for installation of cell towers on twenty-two (22) park locations identified by the Park and Recreation Department which are identified in Section 2.0 of this solicitation. To be considered for award of one or more park sites, the proposer must first be selected as a pool member. In its response to this RFQ, in order to be considered for award of one or more of the park sites, the proposer must submit its qualification requirements as specified in this solicitation (Part A), **and** its proposal for the sites of interest (Part B).

The County intends to select pre-qualified Proposer(s) for the 22 park sites described herein. **A proposer must first be pre-qualified by the County in order to have its proposal considered for award of any site(s).** (See Sections 1.8 and 1.9) Proposers may offer a proposal for cell tower installation at one or more of the available sites. Proposers interested

only in being pre-qualified for membership in the pool are not required to submit a proposal for award of any of the 22 sites that have been identified in this solicitation. A Proposer may pursue pre-qualification through this solicitation, and submit response(s) to future solicitations issued to pool members. **The County reserves the right to add or delete sites during the contract term.**

The County anticipates awarding a contract for a ten (10) year period, with four (4), five-year options-to-renew, at the County's sole discretion.

**The anticipated schedule for this RFQ and contract approval is as follows:**

RFQ Available for Distribution: \_\_\_\_\_, 2011

Pre-Proposal Conference See front cover for date, time and place. Attendance is recommended but not mandatory. If you need a sign language interpreter or materials in accessible format for this event, please call the DPM ADA Coordinator at (305) 375-1564 at least five days in advance.

Pre-Proposal Question Period Ends: \_\_\_\_\_, 2011 at 5:00PM (Local Time)

Deadline for Receipt of Proposals: See front cover for date, time and place.

Evaluation/Selection Process: Anticipated week of \_\_\_\_\_

Oral Presentations, If Conducted: Anticipated week of \_\_\_\_\_

Deadline for Best and Final Offer (BAFO), If Needed: Anticipated week of \_\_\_\_\_, 2:00 PM (Local Time)

Projected Award Date: \_\_\_\_\_, 2011

**1.2 Definitions**

The following words and expressions used in this Solicitation shall be construed as follows, except when it is clear from the context that another meaning is intended:

1. The terms "Licensee" or "Licensee" or "Consultant" or "Vendor" to mean the Proposer who receives any award of a Contract from the County as a result of this Solicitation, which is also to be known as "the prime Licensee" or "the prime Licensee."
2. The term "Accessory Wireless Equipment Building" to mean the self-standing, non-sheltered equipment cabinet(s) necessary to provide utilities, power and signal connection.
3. The term "Antenna" or "Antenna Support Structure" to mean a cylinder type stealth tower used to support transmitting structures and designed to resemble a flagpole.

4. The term “Co-location Monopole” to mean a new ground mounted tower used to support co-located commercial Wireless Supported Service Facilities for wireless or WI-MAX use.
5. The term “County” to mean Miami-Dade County, a political subdivision of the State of Florida.
6. The term “Days” to mean calendar days.
7. The term “Deliverables” to mean the tangible work product submitted by the Licensee to the County.
8. The terms “Enterprise Technology Services Department” or “ETSD” to mean Miami-Dade County’s central Information Technology department.
9. The term “Evaluation/Selection Committee” to mean the group of individuals who will be reviewing the submitted Proposals and eventually recommending a Proposer(s) for award.
10. The term “Existing Hardware” to mean the County owned telecommunication equipment installed on Tenant’s monopole.
11. The terms “Miami-Dade County Park and Recreation Department” or “MDPR” to mean the County Department responsible for park and recreation lands.
12. The term “Monopole” to mean a type of cylinder type stealth tower resembling a flagpole.
13. The term “Proposer” to mean the primary person, firm, entity or organization submitting a response to this Solicitation and stated in Form A-1.
14. The terms “Scope of Services” or “Scope of Work” to mean Section 2.0 of this RFQ that details the work to be performed by the Licensee or Sub-Licensee.
15. The term “Services” to mean all actions performed or to be performed by the Licensee or its Sub-Licensees as listed in Section 2.0: Scope of Services of this RFQ.
16. The term “Short-list” to mean a narrowing of the field of consideration.
17. The term “Solicitation” to mean this Request For Proposals (RFQ) document and all associated addenda and attachments.
18. The terms “Sub-Licensee” or “Subconsultant” to mean any person, firm, entity or organization, other than the employees of the Licensee, who contracts with the Licensee to furnish labor, or labor and materials, in connection with the Work or Services to the County, whether directly or indirectly, on behalf of the Licensee.
19. The term “Sub-Licensee” shall mean any person, firm, entity or provider who contract with the Licensee for antenna array locations on the Tower.
20. The term “Technical Review Committee” to mean the group of individuals who will be assessing the software functionality, and the technical, operational, and maintenance

requirements of each Proposal and providing reports to the Evaluation/Selection Committee.

21. The term "Third-Party" to mean any company or sub-Licensee, other than the Licensee, who will provide software, and/or services in order to fulfill the requirements of Section 2.0: Scope of Services of this RFQ.
22. The terms "Work," "Services," "Program," "Project," or "Engagement" to mean all matters and things that will be required to be done by the Licensee in accordance with Section 2.0: Scope of Services of this RFQ and the terms and conditions of this Solicitation.
23. The words "Should", "Will", "Can" are not mandatory requirements but desirable features.
24. The words "Selected Proposer" to mean the Licensee recommended for award of this Contract that will be performing the work outlined in the Scope of Services.
25. The term "Tower" to mean that not to exceed 120 foot tall monopole used to support antennas.
26. The term "Wireless Supported Service Facilities" to mean that combination of monopole and Accessory Wireless Equipment Building required to operate the Tower.

### **1.3 General Proposal Information**

The County may, at its sole and absolute discretion, reject any and all or parts of any or all responses; accept parts of any and all responses; further negotiate project scope and fees; postpone or cancel at any time this Solicitation process; or waive any irregularities in this Solicitation or in the responses received as a result of this process. In the event that a Proposer wishes to take an exception to any of the terms of this Solicitation, the Proposer shall clearly indicate the exception in its proposal. A proposal shall be understood as the Proposer's firm commitment to provide the goods and services solicited in the manner requested in the Solicitation and described in the proposal. No exception shall be taken where the Solicitation specifically states that exceptions may not be taken. Further, no exception shall be allowed that, in the County's sole discretion, constitutes a material deviation from the requirements of the Solicitation. Proposals taking such exceptions may, in the County's sole discretion, be deemed nonresponsive. The County reserves the right to request and evaluate additional information from any respondent regarding respondent's responsibility after the submission deadline as the County deems necessary.

Proposals shall be irrevocable until contract award unless the proposal is withdrawn. A proposal may be withdrawn in writing only, addressed to the County contact person for this Solicitation, prior to the proposal due date or upon the expiration of 180 calendar days after the opening of proposals.

Proposers are hereby notified that all information submitted as part of, or in support of proposals will be available for public inspection after opening of proposals, in compliance with Chapter 119, Florida Statutes, popularly known as the "Public Record Law". The Proposer shall not submit any information in response to this Solicitation which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any information to the County in connection with this Solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to Proposer. In the event that the Proposer submits information to the County in violation of this restriction, either inadvertently or

intentionally, and clearly identifies that information in the proposal as protected or confidential, the County may, in its sole discretion, either (a) communicate with the Proposer in writing in an effort to obtain the Proposer's written withdrawal of the confidentiality restriction or (b) endeavor to redact and return that information to the Proposer as quickly as possible, and if appropriate, evaluate the balance of the proposal. Under no circumstances shall the County request the withdrawal of the confidentiality restriction if such communication would in the County's sole discretion give to such Proposer a competitive advantage over other proposers. The redaction or return of information pursuant to this clause may render a proposal non-responsive.

Any Proposer who, at the time of proposal submission, is involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the Proposer under federal bankruptcy law or any state insolvency law, may be found non-responsive. To request a copy of any ordinance, resolution and/or administrative order cited in this Solicitation, the Proposer must contact the Clerk of the Board at (305) 375-5126.

#### **1.4 Cone of Silence**

Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, as amended, a "Cone of Silence" is imposed upon each RFQ or RFQ after advertisement and terminates at the time a written recommendation is issued. The Cone of Silence prohibits any communication regarding RFQs or RFQs between, among others:

- potential Proposers, service providers, lobbyists or consultants **and** the County's professional staff including, but not limited to, the County Mayor and the County Mayor's staff, the Mayor, County Commissioners or their respective staffs;
- the Mayor, County Commissioners or their respective staffs **and** the County's professional staff including, but not limited to, the County Mayor and the County Mayor's staff; or
- potential Proposers, service providers, lobbyists or consultants, any member of the County's professional staff, the Mayor, County Commissioners or their respective staffs and any member of the respective selection committee.

The provisions do not apply to, among other communications:

- oral communications with the staff of the Vendor Assistance Unit, the responsible Procurement Agent or Contracting Officer, provided the communication is limited strictly to matters of process or procedure already contained in the solicitation document;
- oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meeting, public presentations made to the Board of County Commissioners during any duly noticed public meeting; or
- communications in writing at any time with any County employees, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFQ or RFQ documents.

When the Cone of Silence is in effect, all potential vendors, service providers, bidders, lobbyists and consultants shall file a copy of any written correspondence concerning the particular RFQ or RFQ with the Clerk of the Board, which shall be made available to any person upon request. The County shall respond in writing (if County deems a response necessary) and file a copy with the Clerk of the Board, which shall be made available to any person upon request. Written

communications may be in the form of e-mail, with a copy to the Clerk of the Board at [CLERKBCC@MIAMIDADE.GOV](mailto:CLERKBCC@MIAMIDADE.GOV).

### **1.5 Public Entity Crimes**

Pursuant to Paragraph 2(a) of Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal for a contract to provide any goods or services to a public entity; may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals on leases of real property to a public entity; may not be awarded or perform work as a Licensee, supplier, subLicensee, or consultant under a contract with any public entity; and, may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for Category Two (\$10,000) for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

### **1.6 Lobbyist Contingency Fees**

- A) In accordance with Section 2-11.1(s) of the Code of Miami-Dade County, after May, 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
- B) A contingency fee is a fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Mayor or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee.

### **1.7 Collusion**

Where two (2) or more related parties, as defined herein, each submit a proposal for any contract, such proposals shall be presumed to be collusive. The foregoing presumption may be rebutted by the presentation of evidence as to the extent of ownership, control and management of such related parties in preparation and submittal of such proposals. Related parties shall mean Proposer or the principals thereof which have a direct or indirect ownership interest in another Proposer for the same contract or in which a parent company or the principals thereof of one Proposer have a direct or indirect ownership interest in another Proposer for the same contract. Furthermore, any prior understanding, agreement, or connection between two or more corporations, firms, or persons submitting a proposal for the same services shall also be presumed to be collusive. Proposals found to be collusive shall be rejected. Proposers who have been found to have engaged in collusion may be considered non-responsible, and may be suspended or debarred, and any contract resulting from collusive bidding may be terminated for default.

## **PART A**

Establishes a pool of qualified vendors to install facility cell towers at selected County sites, The pool will be open to add county sites, and to add additional vendors that meet the qualification criteria established in this solicitation.

## **SCOPE OF SERVICES:**

Proposers will be required to establish facility towers with multiple antenna arrays for one or more County sites, where each will be located on a new Co-location Monopole or other tower in an aesthetically acceptable location, at the Proposer's expense, with access to the new Co-location Monopole or other tower to be subsequently shared by the County and Proposer. As part of the aesthetically acceptable tower and antenna installations, each successful proposer will be required to install and make fully operational public safety enhancements in the form of lighting protection, security cameras, wireless access and a location on each tower for first responder 4G LTE communications. If awarded a contract, the Selected Proposer will be required to enter into a revenue sharing agreement with the County from antenna sub-licensing.

### **1.8 Pool Membership and Structure**

When additional sites are required, the County will issue a Work Order Proposal Request (WOPR) to all approved Pool Members. The County reserves the right to periodically solicit, through an open competitive process, for new pool members who must meet the qualification criteria established by this solicitation.

Membership in the Pool is a prerequisite for obtaining opportunities to present proposals/bids for projects selected for competition using this Pool. There is no guarantee that any or all Pool Members will obtain Work Orders issued through this Pool. Selection into a Pool does not guarantee work, and does not provide for exclusive rights by any firm to provide services to the County.

Following the selection of members into the Pool from this RFQ process, the Pool will be used to compete requests for installation in specific sites from County departments through the Department of Procurement Management (DPM). Respondents must sign an agreement with the County in order to be recommended to the Board for inclusion in the pool. The agreement will include general legal and administrative provisions (see Form of Agreement Exhibit 2 of this RFQ). The agreement will be supplemented, upon any project award resulting from Work Order Proposal Requests (WOPRs) or bids process, by individual Work Orders specifying project scopes, "trade-in" information, prices, financing, and payment information.

Selected Proposers must maintain the qualifications of the firm and proposed personnel at a standard consistent and equivalent to the qualification submissions submitted. The County, in its sole discretion, reserves the right to seek future proposals to add new members to the pool

### **1.9 Work Order Process**

When the need arises, the County will prepare a scope of work and other requirements, and provide all Pool Members with information regarding the response requirements and selection process. Work Order awards will be made competitively, based on technical and quality aspects and/or price. The County may negotiate each Work Order award or may award a Work Order on the basis of initial offers received. The County reserves the right to enter into negotiations with the recommended Pool Member. If the County and the recommended Pool Member cannot negotiate a successful Work Order, the County may terminate negotiations and begin negotiations with another recommended Pool Member. This process may continue until a Work Order has been executed or all Pool Members who responded to the WOPR or Bid have been rejected. No Pool Member shall have any rights against the county arising from such negotiations.

### **1.10 Proposer Qualifications**

Proposer Qualifications for Pool Membership are:

- a) Proposer must demonstrate financial capacity to provide all design, construction, equipment, management and reasonable working capital. Vendor shall submit its latest audited financial statement or tax return that demonstrates its financial capacity.
- b) Proposer must have five years of demonstrated experience providing the type of services outlined in this solicitation. Proposer shall provide a list of previous contracts, with contact information that will allow the County the opportunity to verify the work and services provided. Proposer must have completed a minimum of three contracts similar to the services requested by this solicitation within the last five years.
- c) Proposer must possess the personnel necessary to perform the technical and management responsibilities of the Work outlined in this solicitation. Proposer's personnel must be licensed to perform design, construction, electrical, and cabling work required for installation. Such licenses include [REDACTED]. Proposer shall submit the resumes of key personnel; project and site manager(s), contractor/engineer(s), and key management personnel, that demonstrates the experience and qualifications to perform the work for which they are assigned in the Proposer's response to the RFQ.

### **1.11 Forms of Agreement**

This solicitation contains two Agreements: 1) Exhibit 1: License Agreement, and 2) Exhibit 2: General terms and Conditions. The License Agreement will be negotiated with Proposer(s) selected by the County for award of a site. The General terms and Conditions agreement must be executed by all pre-qualified vendors that are approved by the County as a pool member.

**END SECTION 1**

## Part B

Requests proposals for installation of cell towers on twenty-two (22) park locations identified by the Park and Recreation Department, and are identified in Section 2.0 of this solicitation. To be considered for award of one or more park sites, the proposer must first be selected as a pool member. In its response to this RFQ, in order to be considered for award of one or more of the park sites, the proposer must submit its qualification requirements as specified in Part A, **and** its proposal for the sites of interest (Part B).

### 2.0 SCOPE OF SERVICES

#### 2.1 INTRODUCTION

Under this Request For Qualifications (“RFQ”), the County seeks proposals for the installation of Facility Tower(s) at various County sites to support improved public safety, security, and communication needs for County residents within select County sites. Proposers may pursue such co-location at any one or more of these available sites.

The Proposer may act in the capacity of either a Prime or Developer for each location proposed.

- 1) Primary: A wireless provider who will construct and operate the facility, along with one or more current or additional wireless providers, sharing the facilities under separate Agreements between the primary operator and secondary commercial telecommunications providers (hereinafter referred to as the “Primary Provider”);

or

- 2) Developer: A non-wireless provider who will construct and operate the facility for one or more future additional wireless providers, sharing the facilities under separate Agreements between the primary operator and secondary commercial telecommunications providers (hereinafter referred to as the “Developer”).

For the purposes of this RFQ, the terms Primary Provider and Developer, may be used individually or collectively as the “Proposer” or “Proposers”, and shall mean the legal entity or individual that, upon contract award, will be the party entering into and executing a License Agreement with the County.

#### 2.2 MINIMUM QUALIFICATION REQUIREMENTS

Provide documentation that demonstrates Proposer’s ability to satisfy all of the minimum qualification requirements. The documentation to be provided must include customer references, contact information, and project description. Proposers who do not meet the minimum qualification requirements or who fail to provide supporting documentation may be deemed non-responsive.

The minimum qualification requirements are that:

- a. A Primary provider, excluding its sub-Licensees, must have experience in (1) the construction of communication towers and (2) operating related communications software, maintenance, and support, with a minimum of two tower operations

completed within Miami-Dade, Broward or Palm Beach Counties in the last three years. Primary provider must have an FCC license to operate; or

- b. A Developer, excluding its sub-Licensees, must have experience in the construction and servicing of communication towers and related equipment, with a minimum of two tower operations completed within Miami-Dade, Broward or Palm Beach Counties in the last three years.

## **2.2 OBJECTIVES**

Miami-Dade County's overall objectives for this project are:

To establish stealth towers with multiple antenna arrays for one or more County sites, where each will be located on a new Co-location Monopole in an aesthetically acceptable location, at the Proposer's expense, with access to the new Co-location Monopole to be subsequently shared by the County and Proposer.

## **2.3 GENERAL REQUIREMENTS**

As part of the aesthetically acceptable tower and antenna installations, each successful proposer will be required to install and make fully operational public safety enhancements in the form of lighting protection, security cameras, wireless access and a location on each tower for first responder 4G LTE communications.

Whether serving the purposes of the Primary Provider or Developer, the County shall review the Proposer's plans, specifications, technical data, experience and any other relevant documents, and determine, at its sole authority, if construction of the co-location Monopole, as designed, will serve the intended purpose under this RFQ.

Any selected Proposer must obtain all required governmental approvals and have adequate financial strength to provide all design, construction, equipment, management and reasonable working capital. All Proposers must agree to develop certain co-location facilities and all future commercial telecommunications providers must agree to comply with the terms and conditions of the proposed License Agreement (see Exhibit 1, "Draft Form of Agreement").

## **2.4 LIST OF AVAILABLE PARK FACILITY TOWER LOCATIONS**

The County has identified, in the table below, a list of park locations it wishes to have Park Facility Towers installed. Proposers may propose on one or multiple locations.

	<b><u>Prop. Name</u></b>	<b><u>Address</u></b>	<b><u>Total Acres</u></b>
1.	A.D. Barnes Park	3401 SW 72ND AVE	60.4
2.	Amelia Earhart Park	401 E 65th ST	515
3.	Camp Owaissa Bauer	17001 SW 264TH ST	102.27
4.	Chapman Field Park	13597 OLD CUTLER RD	566
5.	Country Club of Miami	6801 NW 186TH ST	264.48
6.	Gold Coast Railroad Museum Park	12450 SW 152ND ST	49.6
7.	Gwen Cherry Park	7090 NW 22ND AVE	38.55
8.	Homestead Air Reserve Park	27401 SW 127th Ave	212.73
9.	Ives Estates Park	20901 NE 16th AVE	94.46
10.	Kendall Indian Hammocks Park	11395 SW 79TH ST	124

11.	Kendall Soccer Park	8011 SW 127TH AVE	41.97
12.	M E Thompson Park	16665 NW 177TH AVE	618
13.	Zoo Miami	12400 SW 152ND ST	740
14.	Miami-Dade County Auditorium	2901 WEST FLAGLER ST	9.47
15.	Miami-Dade Regional Soccer Park	8795 NW 58TH ST	47.33
16.	Palmetto Golf Course	9300 CORAL REEF DR	121
17.	PLANT	22200 SW 137TH AVE	69.18
18.	Tamiami Park	11201 SW 24TH ST	241.86
19.	Three Lakes Park	13375 SW 136TH ST	15
20.	Trail Glades Range	17601 SW 8TH ST	698.18
21.	Tropical Estates Park	10201 SW 48TH ST	9.07
22.	Tropical Park	7900 SW 40TH ST	275

At each location where a Proposer may be selected and approved by the County to install facilities, pursuant to Chapter 33-311(A)(3)(a) finding by the relevant Community Zoning Appeal Board, the successful Proposer will be required to install equipment substantially in accordance with Attachment A, "Technical Requirement" including:

- 1) a new metal ground-mounted monopole as pictured below, (hereinafter referred to as the "Tower or Co-location Monopole") with all antennas internal to its structure; and
- 2) co-located commercial Wireless Supported Service Facilities for wireless or WI-MAX use; and
- 3) additional equipment for the County to improve public park safety, security and communication needs.

Comparable Park Facility Tower (Park Installation is Without Flag)



Except for County-owned or operated equipment installed on the Monopole, ownership of the Co-location Monopole shall immediately become the property of the selected proposer during the term of the Agreement.

Based on the list of available County sites, potential Proposers may visit and test any such sites during regular operating hours of a park to confirm it meets the needs of certain telecommunication carriers for inclusion in their RFQ response. All testing shall be non-invasive and shall not disturb the soil, park grounds or park patrons.

Each proposer selected, as a result of this RFQ, will be required to execute a License Agreement in substantially the form attached hereto as Exhibit 1, and such Agreement will be effective, contingent upon approval by the Board of County Commissioners, and the proposer successfully securing zoning approval from the governmental body having jurisdiction over the property for the construction and operation of the Park Facility Tower(s) and related facilities. Following execution of the Agreement, each proposer shall have an Option Period of one (1)

year to obtain such zoning approval, unless the proposer actively and earnestly requires additional time and can specifically request an extension of such time. The County, at its sole discretion, may grant extensions of time for up to three (3) month periods. All such requests must be in writing and provided to the County for consideration prior to the expiration of the current period. Within seven (7) business days of the execution of the Agreement, the successful Proposer of each site will be required to pay to the County a fee of: (1) a \$5,000 initial non-reimbursable fee for each approved contract site; and (2) the first year's annual ground license fee, in advance, for the long-term use of real estate associated with the co-location Monopole and equipment site, based on a License Agreement and pursuant to terms and conditions to be approved by the County. Only after a proposer and Licensee has been approved for zoning, construction of the tower is completed, and secondary sub-License Agreements with communication providers approved by the County and executed by the Lessee, will such sub-License fees be due the Lessor.

## **2.5 INSTALLATION REQUIREMENTS**

In all instances, the required improvements to be constructed and installed by the successful Proposer(s), inclusive of County required equipment, shall be at the successful Proposer's sole cost and expense and include, without limitation, the following scope of work at each location where a co-location Monopole is to be constructed (hereinafter referred to collectively as the "Work"):

- 1) installation of one (1) Co-location Monopole and foundation not to exceed 120' feet high above grade, with the work to comply with the criteria established in Attachment A, "Technical Requirement", and in accordance with all applicable federal, state and local rules, codes, statutes and governmental regulations. A minimum setback distance for the Co-location Monopole may be established by the County for certain sites to be a distance of one hundred twenty-five percent (125%) of the height of the Co-location Monopole from the County-owned site's property line. When a monopole is located within a central activity point of a park, the County may require that additional design and/or landscape features be added to eliminate any adverse impact and make it consistent with Article 7 of the County Charter. The County reserves the right to review and approve all construction plans, landscape plans and photo simulations, on a case by case basis, of the location and monopole recommended by each Proposer.
- 2) installation of a seven (7) or eight (8) foot high concrete block or chain link fence, depending on the existing zoning of the property, running along the perimeter of the license area of the equipment area, with the required warning signs, a locked access gate, and otherwise in compliance with the County's fence specifications and criteria. The County reserves the right to review and relocate, on a case by case basis, the location of each monopole equipment area as recommended by each Proposer.
- 3) Installation of a monopole and equipment area in separate areas: 1) where the County generally expects to license a monopole area of approximately 100 SF for each tower and an equipment area of approximately 400 SF for the combined equipment of all Licensees; or 2) installation of a combined monopole and equipment area where the County generally expects to license a combined area of approximately 500 SF. In all cases, each park location installation will be delineated, described and negotiated separately.

- 4) landscaped perimeter of the equipment area, consistent with applicable County code, as approved by MDPR;
- 5) installation and construction of any support structures, utility service independently metered and a single generator service sufficient to provide emergency power for the Monopole and all related service providers within the equipment area;
- 6) installation of electric service, telephone service, communications cables and any other such service or utility necessary for the County and successful Proposer to operate their respective telecommunications facilities on the Co-location Monopole; and
- 7) installation and provision for County use of: 1) equipment capable of providing advance lightning prediction warnings linked to MDPR server; 2) reserved space within the tower for enhanced emergency communication services; 3) wireless security cameras linked to MDPR server; and 4) wireless hi-speed internet access points linked to County servers.

Depending on the site, conditions and County requirements, the ground area associated with the monopole and equipment area may be in two separate areas or one unified area, whichever least impacts the park. After installing each new co-location Monopole, the successful Proposer will assure that the County equipment is fully functional and operable, in conformance with the criteria established in Attachment A, "Technical Requirement". All such work shall be performed by the Proposer, and at the Proposer's expense, as a complete turn-key installation. After the installation is confirmed to be fully functional and operable, the Proposer shall have no further obligation to effect repair, replacement or service of such equipment.

## **2.6 SITE VISIT/INSPECTION**

Section 2.1 contains the list of available County-owned sites.

- 1) Interested Proposers may access the following FTP web site to view the general vicinity of the County's preferred location for each of the Park Facility Towers ([www.live.com](http://www.live.com) using Windows Live ID: [kevina@miamidade.gov](mailto:kevina@miamidade.gov) and Password: parkfacilitytowers). Proposers may make specific inquiries as to the flexibility the County will permit within a specific site.
- 2) Interested Proposers may visit the available County-owned sites during normal park operating hours prior to submission of their proposal response. Such on-site visits will be permitted for the expressed and limited purpose of allowing potential Proposers to review general field conditions, note possible locations and test signal propagation. Under no circumstance will a Proposer be permitted to engage in any intrusive ground disturbing activity prior to submittal of its RFQ response.

**END SECTION 2**

### 3.0 RESPONSE REQUIREMENTS

#### 3.1 Submittal Requirements

In response to this Solicitation, Proposer should **return the entire completed Proposal Submission Package**. Proposers should carefully follow the format and instructions outlined therein. All documents and information must be fully completed and signed as required.

The proposal shall be written in sufficient detail to permit the County to conduct a meaningful evaluation of the proposed services. However, overly elaborate responses are not requested or desired.

<p style="text-align: center;"><b>PROPOSAL SUBMISSION PACKAGE</b> <b>Request for Qualifications (RFQ) No. ____</b> <b>FACILITY TOWERS FOR VARIOUS COUNTY DEPARTMENTS</b></p>
--

In response to the Solicitation, Proposer shall **RETURN THIS ENTIRE PACKAGE** completed as follows:

#### 1. TABLE OF CONTENTS

The Table of Contents should outline in sequential order the major areas of the proposal. Proposers should carefully follow the order and instructions outlined below. All pages of the proposal, including the enclosures, must be clearly and consecutively numbered and correspond to the Table of Contents.

#### 2. **Form A-1, Cover Page of Proposal**

Complete and sign (by Proposer or representative of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer) as required.

#### 3. **Proposer Information**

Complete the Proposer Information section following the requirements therein.

Note: The Proposer Information document is available in an electronic format (Word) by submitting a written request via e-mail to the County contact person for this Solicitation.

#### 4. **Affidavits/Acknowledgements**

Complete and sign the following forms:

- Form A-2, Lobbyist Registration for Oral Presentations
- Form A-3, Acknowledgement of Addenda
- Form A-4, Local Business Preference
- Form A-5, Proposer's Disclosure of Sub-Licensees and Suppliers
- Form A-6, Fair Subcontracting Policies

**5. Form B-1, Price Proposal Schedule**

Complete and sign (by Proposer or representative of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer) as required.

**6. Proposal Submission**

Submit in hardcopy format an unbound original, complete Proposal Submission Package and fourteen (14) copies of the complete package (for a total of fifteen Proposals) **by the Proposal Due Date** (see front cover of Solicitation) in a sealed envelope/container. Proposers are requested to submit an electronic version of the Proposal in PDF format or equivalent. The electronic version shall also be submitted with the unbound originals as appropriate. Electronic media submitted may be either a Compact Disk (CD) or USB Flash Drive and shall bear a label on the outside containing the RFQ number and name, the name of the Proposer. All electronic media submitted to the County will not be returned to the Proposer.

<p><b>Proposer's Name:</b> <b>Proposer's Address:</b> <b>Proposer's Telephone Number:</b></p>	<p><b>Clerk of the Board</b> <b>Stephen P. Clark Center</b> <b>111 NW 1st Street, 17th Floor, Suite 202</b></p>
<p><b>RFQ Title: FACILITY TOWERS FOR VARIOUS COUNTY DEPARTMENTS</b> <b>Proposal Due Date: _____</b></p>	

**END SECTION 3**

## 4.0 EVALUATION PROCESS FOR PART B RESPONDENTS

### 4.1 Review of Proposals for Responsiveness

Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in this Solicitation. A responsive proposal is one which follows the requirements of this Solicitation, includes all documentation, is submitted in the format outlined in this Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may result in the proposal being deemed non-responsive.

### 4.2 Evaluation Criteria

Proposals will be evaluated by an Evaluation/Selection Committee which will evaluate and rank proposals on criteria listed below. The Evaluation/Selection Committee will be comprised of appropriate County personnel and members of the community, as deemed necessary, with the appropriate experience and/or knowledge, striving to ensure that the Evaluation/Selection Committee is balanced with regard to both ethnicity and gender. The criteria are itemized with their respective weights for a maximum total of one hundred (100) points per Evaluation/Selection Committee member.

<u>Technical Criteria</u>	<u>Points</u>
1. Proposer's relevant experience, qualifications, and past performance. Proposing firm's vision, fit, and financial stability, etc.	20
2. Relevant experience and qualifications of key personnel, including key personnel of sub-Licensee(s) that will be assigned to this project.	10
3. Proposer's ability to meet the requirements as outlined in Section 2.0 of this document.	20
4. Price	30
<hr/>	
<b>Total Points per Evaluation/Selection Committee Member:</b>	<b>100</b>

### 4.3 Oral Presentations

Upon completion of the evaluation indicated above, rating and ranking, the Evaluation/Selection Committee may choose to conduct an oral presentation with the Proposer(s) which the Evaluation/Selection Committee deems to warrant further consideration based on, among other considerations, scores in clusters and/or maintaining competition. (See **Form A-2** regarding registering speakers in the proposal for oral presentations). Upon completion of the oral presentation(s), the Evaluation/Selection Committee will re-evaluate, re-rate and re-rank the proposals remaining in consideration based upon the written documents combined with the oral presentation.

#### **4.4 Selection Factor**

This Solicitation includes a selection factor for Miami-Dade County Certified Small Business Enterprises (SBE's) as follows. A SBE/Micro Business Enterprise is entitled to receive an additional ten percent (10%) of the total technical evaluation points on the technical portion of such Proposer's proposal. An SBE/Micro Business Enterprise must be certified by the Department of Small Business Development for the type of goods and/or services the Proposer provides in accordance with the applicable Commodity Code(s) for this Solicitation. For certification information contact the Department of Small Business Development at (305) 375-3111 or access [www.miamidade.gov/sba](http://www.miamidade.gov/sba). The SBE/Micro Business Enterprise must be certified by proposal submission deadline, at contract award, and for the duration of the contract to remain eligible for the preference. Firms that graduate from the SBE program during the contract may remain on the contract.

#### **4.5 Local Certified Service-Disabled Veteran's Business Enterprise Preference**

This Solicitation includes a preference for Miami-Dade County Local Certified Service-Disabled Veteran Business Enterprises in accordance with Section 2-8.5.1 of the Code of Miami-Dade County. A VBE is entitled to receive an additional five percent (5%) of the total technical evaluation points on the technical portion of such Proposer's proposal. If a Miami-Dade County Certified Small Business Enterprise (SBE) measure is being applied to this Solicitation, a VBE which also qualifies for the SBE measure shall not receive the veteran's preference provided in this section and shall be limited to the applicable SBE preference.

#### **4.6 Price Evaluation**

The price proposal will be evaluated subjectively in combination with the technical proposal, including an evaluation of how well it matches Proposer's understanding of the County's needs described in this Solicitation, the Proposer's assumptions, and the value of the proposed services. The pricing evaluation is used as part of the evaluation process to determine the highest ranked Proposer. The County reserves the right to negotiate the final terms, conditions and pricing of the contract as may be in the best interest of the County.

#### **4.7 Local Preference**

The evaluation of competitive solicitations is subject to Section 2-8.5 of the Miami-Dade County Code, which, except where contrary to federal or state law, or any other funding source requirements, provides that preference be given to local businesses (see **Form A-4**). If, following the completion of final rankings by the Evaluation/Selection Committee, a non-local Proposer is the highest ranked responsive and responsible Proposer, and the ranking of a responsive and responsible local Proposer is within 5% of the ranking obtained by said non-local Proposer, then the Evaluation/Selection Committee will recommend that a contract be negotiated with said local Proposer.

#### **4.8 Negotiations**

The County may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the Proposer's best terms from a monetary and technical standpoint.

The Evaluation/Selection Committee will evaluate, score and rank proposals, and submit the results of their evaluation to the County Mayor or designee with their recommendation. The

County Mayor or designee will determine with which Proposer(s) the County shall negotiate, if any, taking into consideration the Local Preference Section above. In his sole discretion, the County Mayor or designee may direct negotiations with the highest ranked Proposer, negotiations with multiple Proposers, or may request best and final offers (BAFO).

Notwithstanding the foregoing, if the County and said Proposer(s) cannot reach agreement on a contract, the County reserves the right to terminate negotiations and may, at the County Mayor or designee's discretion, begin negotiations with the next highest ranked Proposer(s). This process may continue until a contract acceptable to the County has been executed or all proposals are rejected. No Proposer shall have any rights against the County arising from such negotiations or termination thereof.

Any Proposer recommended for negotiations shall:

- a) Complete a Collusion Affidavit, in accordance with Sections 2-8-1.1 and 10-33.1 of the Miami-Dade County Code as amended by Ordinance 08-113. (If a Proposer fails to submit the required Collusion Affidavit, said Proposer shall be ineligible for award.)

Any Proposer recommended for negotiations may be required to provide to the County:

- a) Its most recent certified business financial statements as of a date not earlier than the end of the Proposer's preceding official tax accounting period, together with a statement in writing, signed by a duly authorized representative, stating that the present financial condition is materially the same as that shown on the balance sheet and income statement submitted, or with an explanation for a material change in the financial condition. A copy of the most recent business income tax return will be accepted if certified financial statements are unavailable.
- b) Information concerning any prior or pending litigation, either civil or criminal, involving a governmental agency or which may affect the performance of the services to be rendered herein, in which the Proposer, any of its employees or sub-licensees is or has been involved within the last three years.

#### **4.9 Contract Award**

Any contract, resulting from this Solicitation, will be submitted to the County Mayor or designee for approval. All Proposers will be notified in writing when the County Mayor or designee makes an award recommendation. Contract award, if any, shall be made to the Proposer whose proposal shall be deemed by the County to be in the best interest of the County. The Board of County Commissioners shall approve all contracts. Contracts will be effective, contingent upon the proposer successfully securing zoning approval from the governmental body having jurisdiction over the property for the construction and operation of the Park Facility Tower(s) and related facilities. Notwithstanding the rights of protest listed below, the County's decision of whether to make the award and to which Proposer shall be final.

#### **4.10 Rights of Protest**

- A. A recommendation for contract award or rejection of all proposals may be protested by a Proposer in accordance with the procedures contained in Sections 2-8.3 and 2-8.4 of the County Code, as amended, and as established in Implementing Order No. 3-21.

- B. A written intent to protest shall be filed with the Clerk of the Board and mailed to all participants in the competitive process and to the County Attorney within three (3) County workdays of the filing of the County Mayor's recommendation. This three day period begins on the County workday after the filing of the County Mayor's recommendation. Such written intent to protest shall state the particular grounds on which it is based and shall be accompanied by a filing fee as detailed in Para C below.
- C. The written intent to protest shall be accompanied by a non-refundable filing fee, payable to the Clerk of the Board, in accordance with the schedule provided below:

<u>Award Amount</u>	<u>Filing Fee</u>
\$25,000-\$250,000	\$500
\$250,001-\$500,000	\$1,000
\$500,001-\$5 million	\$3,000
Over \$5 million	\$5,000

- D. For award recommendations greater than \$250,000, the County's recommendation to award or reject will be immediately communicated (via mail, fax or e-mail) to all participants in the competitive process and filed with the Clerk of the Board.
- E. For award recommendations from \$25,000 to \$250,000, each County workday, as appropriate, recommendations to award or reject will be posted in the lobby of the Stephen P. Clark Center, located at 111 NW 1<sup>st</sup> Street, Miami, FL. Participants may also view recommendations to award on-line at the DPM website or call the contact person as identified on the cover page of the Solicitation.

Any question, issue, objection or disagreement concerning, generated by, or arising from the published requirements, terms, conditions or processes contained or described in the solicitation document shall be deemed waived by the protester and shall be rejected as a basis for a protest unless it was brought by that Proposer to the attention, in writing, of the procurement agent, buyer, contracting officer or other contact person in the County department that issued the solicitation document, at least two working days (not less than 48 hours) prior to the hour of the due date for proposal submission.

**END SECTION 4**

## 5.0 TERMS AND CONDITIONS

The anticipated form of agreement is attached. The terms and conditions summarized below are of special note and can be found in their entirety in the agreement:

### **A. Vendor Registration**

Prior to being recommended for award, the Proposer shall complete a Miami-Dade County Vendor Registration Package. Effective June 1, 2008, the new Vendor Registration Package, including a Uniform Affidavit Packet (Affidavit form), must be completed. The Vendor Registration Package, including all affidavits can be obtained by downloading from the DPM website at [www.miamidade.gov](http://www.miamidade.gov) or from the Vendor Assistance Unit at 111 N.W. 1st Street, 13th Floor, Miami, FL. The recommended Proposer shall affirm that all information submitted with its Vendor Registration Package is current, complete and accurate, at the time they submitted a response to the Solicitation, by completing an Affirmation of Vendor Affidavit form.

### **B. Insurance Requirements**

The Licensee shall furnish to the County, Department of Procurement Management, prior to the commencement of any work under any Agreement, Certificates(s) of Insurance which indicate insurance coverage has been obtained that meets the stated requirements.

**END SECTION 5**

## 6.0 ATTACHMENTS

Proposal Submission Package

Proposer Information

Attachment 1: Form B-1 – Price Proposal Schedule

Attachment 2: Affidavits/Forms - Forms A-1 through A-6

Attachment 3: Technical Requirements

EXHIBIT A: LEGAL DESCRIPTION OF PARENT PARCEL OWNED BY LICENSOR

[ATTACH SURVEY SHOWING LEGAL AND BOUNDARY OF LICENSE AREA]

EXHIBIT B: SITE PLAN - (ATTACH SITE PLAN INCLUSIVE OF ACCESS LOCATION)

EXHIBIT C: LEGAL DESCRIPTION OF LICENSE AREA - [ATTACH SURVEY OF LEGAL AND BOUNDARY OF LICENSE AND ACCESS ROUTE]

EXHIBIT D: MEMORANDUM OF LICENSE - [ATTACH MEMORANDUM OF LICENSE]

EXHIBIT E: PHOTO SIMULATIONS OF THE LICENSE AREA AND PROPERTY UPON COMPLETION OF CONSTRUCTION - [ATTACH PHOTO SIMULATIONS]

Exhibit 1: License Agreement

Exhibit 2: General Terms and Conditions

**END SECTION 6**

## **PROPOSER INFORMATION**

### **PROPOSER'S BACKGROUND, EXPERIENCE AND PAST PERFORMANCE**

2. Describe the Proposer's company business structure (provide Articles of Incorporation) and background, past performance and experience and state the number of years that the Proposer has been in existence, the current number of employees, and the primary markets served. Describe the key value-added features (products or services) that differentiate you from your competitors.
3. Provide three years of any audited summary Financial Statements that demonstrates Proposer's financial stability and capacity.
4. Describe the type and number of employees working in the work product being proposed. Indicate the work of key personnel; Project and/or Site Manager(s), Sales/Marketing Manager or similar personnel, Installation personnel; engineer(s), and construction personnel.
5. Provide a detailed description of comparable contracts (similar in scope of services to those requested herein) which the Proposer has either ongoing or completed within the past three years. The description should identify for each project: (i) client, (ii) description of work, (iii) complexity in terms of project scope and team size, (iv) length of the contract, (v) statement of whether Proposer was the prime Licensee or sub-Licensee, and (vi) the results of the project. Where possible, list and describe those projects performed for government clients or similar size private entities (excluding any work performed for the County). Client contact person, phone number, and e-mail should be provided upon request.
6. List all contracts in which the Proposer has performed for Miami-Dade County. The County will review all contracts the Proposer has performed for the County in accordance with Section 2-8.1(g) of the Miami-Dade County Code, which requires that "a Bidder's or Proposer's past performance on County Contracts be considered in the selection of Consultants and Licensees for future County Contracts." As such the Proposer must list and describe all work performed for Miami-Dade County and include for each project: (i) name of the County Department which administers or administered the contract, (ii) description of work, (iii) County contact person and phone number, (iv) statement of whether Proposer was the prime Licensee or sub-Licensee, and (v) the results of the project.

### **KEY PERSONNEL AND SUB-LICENSEES PERFORMING SERVICES**

7. Provide an organization chart showing all key personnel, including their titles, to be assigned to this project. All key personnel include all Licensees, sub-Licensees and other professional staff that will perform work and/or services in this project. This chart must clearly identify the Proposer's employees and those of the sub-Licensees or sub-consultants and shall include the functions to be performed by the key personnel.
8. Provide resumes or describe the experience, qualifications and other vital information, including relevant experience on previous similar projects, of all key personnel (not including sub-Licensees), who will be assigned to this project.
9. List the names and addresses of all first tier sub-Licensees, and describe the extent of work to be performed by each first tier sub-Licensee. Provide resumes or describe the experience, qualifications and other vital information, including relevant experience on previous similar projects, of the sub-Licensees who will be assigned to this project.

**Note: After proposal submission, the Proposer has a continuing obligation to advise the County of any changes, intended or otherwise, to the key personnel identified in its proposal.**

### **PROPOSED APPROACH TO PROVIDING THE SERVICES**

10. Describe Proposer's specific project plan and procedures to be used in providing the services in the Scope of Services (**see Section 2.0**). The project plan should include only the installation of the tower, equipment area and any additional wireless or WI-MAX communication equipment to be in production within a period of four to six months after the kick-off date of the project. Proposers are to briefly discuss and provide summary documentation depicting the various project stages for tower and equipment installation. The Proposer must also submit an implementation timeline to include approximate timeframes accounting for all implementation key tasks (including, but not limited to zoning approvals, survey, easements, Agreements, County equipment purchase and installation, tower installation, survey, project management, testing, and post-installation support).
11. Describe Proposer's implementation, methodology and recommended solutions in performing the services described in the Scope of Services (Section 2.0). The Proposer shall describe its approach to project organization and management, responsibilities of Proposer's management and staff personnel that will perform work in this project.

### **OTHER**

12. Identify if Proposer has taken any exception to the terms of this Solicitation and the draft form of agreement. If so, indicate what alternative is being offered and the cost implications of the exception(s) if applicable.

### **PROPOSED PRICE FOR THE PARK FACILITY TOWER WITH CUSTOMER EQUIPMENT**

13. The Proposer's price, inclusive of the design and installation costs of all associated equipment and payments to the County, shall be submitted on Form B-1 "Price Proposal Schedule".

**ATTACHMENT 1**

**FORM B-1- PRICE PROPOSAL SCHEDULE**

DRAFT



Proposer: \_\_\_\_\_

\*Authorized Signature: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

Federal Employer Identification Number: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

E-Mail: \_\_\_\_\_

**\*Proposer must submit documentation that demonstrates the individual signing as the Authorized Signature above is an approved representative and authorized to bind the Proposer.**

DRAFT

## **ATTACHMENT 2**

### **Affidavits/Acknowledgements**

#### **FORMS A-1 THROUGH A-6**

**DRAFT**

Form A-1

**PROPOSER'S NAME (Name of firm, entity or organization):**

**FEDERAL EMPLOYER IDENTIFICATION NUMBER:**

**NAME AND TITLE OF PROPOSER'S CONTACT PERSON:**

Name:

Title:

**MAILING ADDRESS:**

Street Address:

City, State, Zip:

**TELEPHONE:**

( )

**FAX:**

( )

**E-MAIL ADDRESS:**

**PROPOSER'S ORGANIZATIONAL STRUCTURE:**

Corporation Partnership Proprietorship Joint Venture

Other (Explain):

**IF CORPORATION:**

Date Incorporated/Organized:

State Incorporated/Organized:

States registered in as foreign corporation:

**PROPOSER'S SERVICE OR BUSINESS ACTIVITIES OTHER THAN WHAT THIS SOLICITATION REQUESTS FOR:**

**LIST NAMES OF PROPOSER'S SUB-LICENSEES OR SUBCONSULTANTS FOR THIS PROJECT:**

**LOCAL CERTIFIED SERVICE-DISABLED VETERAN BUSINESS ENTERPRISE:**

A Local Certified Service-Disabled Veteran Business Enterprise is a firm that is a) a local business pursuant to Section 2-8.5 of the Code of Miami-Dade County and b) prior to proposal submittal is certified by the State of Florida Department of Management Services as a service-disabled veteran business enterprise pursuant to Section 295.187 of the Florida Statutes. At the time of proposal submission, the Local Certified Service-Disabled Veteran Business Enterprise must affirm in writing its compliance with the certification requirements of Section 295.187 of the Florida Statutes and submit said affirmation and a copy of the actual certification along with the proposal submission.

Place a checkmark here only if affirming Proposer is a certified Local Certified Service-Disabled Veteran Business Enterprise. A copy of the required certification must be submitted with the proposal.

**CRIMINAL CONVICTION DISCLOSURE:**

Pursuant to Miami-Dade County Ordinance No. 94-34, any individual who has been convicted of a felony during the past ten years and any corporation, partnership, joint venture or other legal entity having an officer, director, or executive who has been convicted of a felony during the past ten years shall disclose this information prior to entering into a contract with or receiving funding from the County.

Place a checkmark here only if Proposer has such conviction to disclose to comply with this requirement.

**PROPOSER'S AUTHORIZED SIGNATURE**

The undersigned hereby certifies that this proposal is submitted in response to this solicitation.

THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF PROPOSER TO BE BOUND BY THE TERMS OF ITS PROPOSAL. FAILURE TO SIGN THIS SOLICITATION WHERE INDICATED BELOW BY AN AUTHORIZED REPRESENTATIVE SHALL RENDER THE PROPOSAL NON-RESPONSIVE. THE COUNTY MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY PROPOSAL THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE PROPOSER TO THE TERMS OF ITS OFFER.

Signed By: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

---

A-1 Rev. 11/9/09

DRAFT

**Form A-2**  
**AFFIDAVIT OF MIAMI-DADE COUNTY**  
**LOBBYIST REGISTRATION FOR ORAL PRESENTATION**

(1) Project Title: \_\_\_\_\_ Project No.: \_\_\_\_\_  
 (2) Department: \_\_\_\_\_  
 (3) Proposer's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Business Telephone: (\_\_\_\_) \_\_\_\_\_

**(4) List All Members of the Presentation Team Who Will Be Participating in the Oral Presentation:**

NAME	TITLE	EMPLOYED BY	TEL. NO.
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(ATTACH ADDITIONAL SHEET IF NECESSARY)

**The individuals named above are Registered and the Registration Fee is not required for the Oral Presentation ONLY.**

Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection, technical review or similar committee must be listed on an affidavit provided by the County. The affidavit shall be filed with the Clerk of the Board at the time the response is submitted. The individual or firm must submit a revised affidavit for additional team members added after submittal of the proposal with the Clerk of the Board at least two days prior to the oral presentation. Any person not listed on the affidavit or revised affidavit may not participate in the oral presentation, unless he or she is registered with the Clerk's office and has paid all applicable fees.

Other than for the oral presentation, Proposers who wish to address the county commission, county board or county committee concerning any actions, decisions or recommendations of County personnel regarding this solicitation in accordance with Section 2-11.1(s) of the Code of Miami-Dade County MUST register with the Clerk of the Board and pay all applicable fees.

I do solemnly swear that all the foregoing facts are true and correct and I have read or am familiar with the provisions of Section 2-11.1(s) of the Code of Miami-Dade County as amended.

Signature of Authorized Representative: \_\_\_\_\_ Title: \_\_\_\_\_  
 STATE OF \_\_\_\_\_  
 COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_, by \_\_\_\_\_, a \_\_\_\_\_, who is personally known (Individual, Officer, Partner or Agent) (Sole Proprietor, Corporation or Partnership) to me or who has produced \_\_\_\_\_ as identification and who did/did not take an oath.

\_\_\_\_\_  
 (Signature of person taking acknowledgement)

\_\_\_\_\_  
 (Name of Acknowledger typed, printed or stamped)

\_\_\_\_\_  
 (Title or Rank)                      (Serial Number, if any)

*Revised 2/7/05*

**Form A-3**  
**ACKNOWLEDGEMENT OF ADDENDA**

**Instructions:** Complete Part I or Part II, whichever is applicable.

---

**PART I:** Listed below are the dates of issue for each Addendum received in connection with this solicitation.

Addendum #1, Dated \_\_\_\_\_, 201\_\_\_\_

Addendum #2, Dated \_\_\_\_\_, 201\_\_\_\_

Addendum #3, Dated \_\_\_\_\_, 201\_\_\_\_

Addendum #4, Dated \_\_\_\_\_, 201\_\_\_\_

Addendum #5, Dated \_\_\_\_\_, 201\_\_\_\_

Addendum #6, Dated \_\_\_\_\_, 201\_\_\_\_

Addendum #7, Dated \_\_\_\_\_, 201\_\_\_\_

Addendum #8, Dated \_\_\_\_\_, 201\_\_\_\_

Addendum #9, Dated \_\_\_\_\_, 201\_\_\_\_

---

**PART II:**

\_\_\_\_ No Addendum was received in connection with this solicitation.

---

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_

A-3 - Rev. 1/25/10

FORM A-4

**LOCAL BUSINESS PREFERENCE**

The evaluation of competitive solicitations is subject to Section 2-8.5 of the Miami-Dade County Code, which, except where contrary to federal or state law, or any other funding source requirements, provides that preference be given to local businesses. A local business, for the purposes of receiving the aforementioned preference above, shall be defined as a Proposer which meets all of the following.

1. Proposer has a valid Local Business Tax Receipt (formerly know as an Occupational License), issued by Miami-Dade County at least one year prior to proposal submission, that is appropriate for the goods, services or construction to be purchased.

**Proposer shall attach a copy of said Miami-Dade County Local Business Tax Receipt hereto. (Note: Current and past year receipts, or occupational licenses, as may be applicable, may need to be submitted as proof that it was issued at least one year prior to the proposal due date.)**

2. Proposer has a physical business address located within the limits of Miami-Dade County from which the Proposer operates or performs business. (Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address.)

**Proposer shall state its Miami-Dade County (or Broward County if applicable, see note below) physical business address**

3. Proposer contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way. This may include but not be limited to the retention and expansion of employment opportunities and the support and increase in the County's tax base. To satisfy this requirement, the Proposer shall affirm in writing its compliance with any of the following objective criteria as of the proposal submission date:

Check box, if applicable:

- a) Proposer has at least ten (10) permanent full time employees, or part time employees equivalent to 10 FTE ("full-time equivalent" employees working 40 hours per week) that live in Miami-Dade County, or at least 25% of its employees that live in Miami-Dade County.
- b) Proposer contributes to the County's tax base by paying either real property taxes or tangible personal property taxes to Miami-Dade County.
- c) Proposer contributes to the economic development and well-being of Miami-Dade County by some other verifiable and measurable contribution by \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Proposer shall check the box if applicable and, if checking item "c", shall provide a written statement, above, defining how Proposer meets that criteria.**

By signing below, Proposer affirms that it meets the above criteria to qualify for Local Preference and has submitted the requested documents.

Note: At this time, there is an Interlocal Agreement in effect between Miami-Dade and Broward Counties until September 30, 2011. Therefore, a Proposer which meets the requirements of (1), (2) and (3) above for Broward County shall be considered a local business for the purposes outlined herein.

Federal Employer Identification Number: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

I hereby certify that to the best of my knowledge and belief all the foregoing facts are true and correct.

Signature of Authorized Representative: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

SUBSCRIBED AND SWORN TO (or affirmed) before me on \_\_\_\_\_,  
(Date)

by \_\_\_\_\_ (Affiant). He/She is personally known to me or has

presented \_\_\_\_\_ as identification.  
(Type of Identification)

\_\_\_\_\_  
(Signature of Notary) (Serial Number)

\_\_\_\_\_  
(Print or Stamp Name of Notary) (Expiration Date)

Notary Public \_\_\_\_\_ Notary Seal  
(State)

**FORM A-5**

**SUB-LICENSEE/SUPPLIER LISTING  
(Ordinance 97-104)**

Name of Proposer: \_\_\_\_\_

This form, or a comparable listing meeting the requirements of Ordinance No. 97-104, **MUST** be completed by all bidders and proposers on County contracts for purchase of supplies, materials or services, including professional services which involve expenditures of \$100,000 or more, and all bidders and proposers on County or Public Health Trust construction contracts which involve expenditures of \$100,000 or more. **This form, or a comparable listing meeting the requirements of Ordinance No. 97-104, must be completed and submitted even though the bidder or proposer will not utilize subLicensees or suppliers on the contract. The bidder or proposer should enter the word "NONE" under the appropriate heading in those instances where no subLicensees or suppliers will be used on the contract.** A bidder or proposer who is awarded the contract shall not change or substitute first tier subLicensees or direct suppliers or the portions of the contract work to be performed or materials to be supplied from those identified except upon written approval of the County.

Business Name and Address of First Tier SubLicensee/Subconsultant	Principal Owner	Scope of Work to be Performed by SubLicensee/Subconsultant	(Principal Owner)  Gender Race	
Business Name and Address of Direct Supplier	Principal Owner	Supplies/Materials/Services to be Provided by Supplier	(Principal Owner)  Gender Race	

I certify that the representations contained in this SubLicensee/Supplier Listing are to the best of my knowledge true and accurate.

---

Signature of Proposer's Date	Print Name	Print Title
Authorized Representative		

(Duplicate if additional space is needed)  
Form A-5(new 5/7/99)

**Form A-6**

*FAIR SUBCONTRACTING POLICIES  
(Section 2-8.8 of the Miami-Dade County Code)*

**FAIR SUBCONTRACTING PRACTICES**

In compliance with Section 2-8.8 of the Miami-Dade County Code, the Proposer submits the following detailed statement of its policies and procedures for awarding subcontracts:

\_\_\_\_\_

I hereby certify that the foregoing information is true, correct and complete.

Signature of Authorized Representative:

\_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_

Firm Name: \_\_\_\_\_

*Form A-6 Rev. 2/13/01*

**ATTACHMENT 3**  
**TECHNICAL REQUIREMENT**

DRAFT

ATTACHMENT 3  
TECHNICAL REQUIREMENT

1. Commercial Communications equipment (Wireless, WiMax or both)
  - One (1) stealth monopole Tower not to exceed one-hundred twenty (120) feet tall above grade
  - Minimum of three (3) sections available for private antenna arrays per Tower
  - One (1) area for public antenna array to be dedicated to backhaul for County essential services (not subject to rent)
  - Associated base station equipment (ground) area for all arrays and providers, County included
  - Ground mounted equipment and generator for emergency backup power
  
2. Park Security camera(s) equipment for each park should be equal or better, as determined in the sole discretion of the County, than the following:
  - IVC PTZ-3130 -04 camera
  - IVC MB 101 Mounting kit
  - IVC RSS-4008 Server software
  - IVC VSS -4008 View station software
  - IVC RSC -4300-01 Server connected to the Park and MDPR server
  - IVC RSC -4050-03 750 GB hard drive

Each park must have the installed capability to capture security images of public park patrons with a minimum coverage of 60% of the park area (excluding lake areas). The coverage area for the security camera service may differ on a park by park basis and thereby require different numbers of cameras per park. The County shall make the final determination, in its sole discretion, whether these minimum requirements for the coverage areas are met. Public park area where patrons congregate, like picnic, football, soccer and baseball areas, are the preferable coverage areas. The locations of the access points to have the 60% minimum park coverage are the responsibility of the wireless provider.

3. Park Advance Lightning Prediction equipment(s) for each park should be equal or better, as determined in the sole discretion of the County, than the following:
  - Thor Guard Integrated Lightning Prediction and Warning system Model L75B
  - Thor base Driver with Transmitter
  - UPS Line Conditioner, Surge Protection and Battery Backup connected to the Park and MDPR server.

Each park must have the installed capability to provide lighting prediction warning to public park patrons with a minimum coverage of 60% of the park area. The coverage area for the lighting prediction system may differ on a park by park basis. The County shall make the final determination, in its sole discretion, whether these minimum requirements for the coverage areas are met. Public parks area where patrons congregate, like picnic, football, soccer and baseball areas, are the preferable coverage areas.

4. Park Wireless internet equipment(s) for each park should be equal or better, as determined in the sole discretion of the County, than the following.

The technology used on the parks should be a WI-FI-802-11b/g/n. The backhaul to the ISP provider is part of the agreement of the wireless provider to provide a minimum of a 1.544 Mbps. Each park must have the installed capability to provide free Internet to public park patrons with a minimum 60% coverage of the park area. The coverage area for the free Internet service may differ on a park by park basis, since the patrons to use the WI-FI service varies in each park. The County shall make the final determination, in its sole discretion, whether these minimum requirements for the coverage areas are met. Public parks area where the locations of the access points to have the 60% minimum park coverage is the responsibility of the wireless provider, Public areas where patrons congregate, like picnic, football, soccer and baseball areas are the preferable coverage areas.

#### 5. Public Facility Enhanced Communications

Each tower will have one public facility area (one antenna location of the Tower) dedicated to and retained for the County to install equipment for its own 4G LTE system. This service will to be used only by County personnel and or first responder public safety personnel to enhance the communication and security of the County. The County will not compete in any form or shape with the wireless carriers providing this service to the public. It may be relegated to the bottom most segment of the monopole that is still high enough, as determined at the sole discretion of the County, to provide unrestricted signalized communication.

# EXHIBIT 1

**LICENSE AGREEMENT WITH OPTION**

**FOR**

**PARK FACILITY TOWER**

DRAFT

**LICENSE AGREEMENT WITH OPTION  
FOR  
PARK FACILITY TOWER**

THIS SITE LICENSE AGREEMENT WITH OPTION (THIS "LICENSE") MADE AND ENTERED INTO AS OF THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 201\_\_ BY AND BETWEEN MIAMI-DADE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, HAVING ITS PRINCIPAL OFFICE AT 111 NW 1ST STREET, MIAMI, FLORIDA 33128 ("LICENSOR") AS LICENSOR, AND \_\_\_\_\_, A \_\_\_\_\_ [CORPORATION, PARTNERSHIP, LLC, ETC.] WITH ITS PRINCIPAL OFFICE LOCATED AT \_\_\_\_\_ ("LICENSEE") AS LICENSEE. LICENSOR AND LICENSEE ARE AT TIMES COLLECTIVELY REFERRED TO AS "PARTIES" OR INDIVIDUALLY AS A "PARTY".

WITNESSETH:

WHEREAS, the County owns and/or operates certain real property located throughout Miami-Dade County for public park and recreation purposes, and which is administered for by the Miami-Dade Park and Recreation Department (the "MDPR"), or designee; and

WHEREAS, the COUNTY seeks to improve public park safety, security and communications within and among parks and park visitors by installing Park Facility Towers at select parks; and

WHEREAS, the COUNTY can additionally provide improved wireless and WI-MAX communications outside of parks through the installation of the same Park Facility Towers; and

WHEREAS, the COUNTY seeks to establish License Agreements at various COUNTY parks to allow private parties to also improve communication services through the installation of equipment also serving resident communication services; and

NOW THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

**DEFINITIONS**

- (a) The terms "Licensee" or "Consultant" or "Vendor" to mean the Proposer who receives any award of a Contract from the County as a result of this Solicitation, which is also to be known as "the prime Licensee" or "the prime Consultant."
- (b) The term "County" to mean Miami-Dade County, a political subdivision of the State of Florida.
- (c) The term "Days" to mean calendar days.

- (d) The term "Deliverables" to mean the tangible work product submitted by the Licensee to the County.
- (e) The term "Development approvals" to mean County approvals for zoning authorization of the public necessity of specific tower locations through Community Zoning Appeal Boards or the Board of County Commissioners.
- (f) The terms "Enterprise Technology Services Department" or "ETSD" to mean Miami-Dade County's central information technology department.
- (g) The term "Evaluation/Selection Committee" to mean the group of individuals who will be reviewing the submitted Proposals and eventually recommending a Proposer(s) for award.
- (h) The term "County Hardware" to mean the County owned telecommunication equipment mounted on Tenant's monopole.
- (i) The terms "Scope of Services" or "Scope of Work" to mean Exhibit A of this Contract that details the work to be performed by the Licensee or Sub-Licensee.
- (j) The term "Services" to mean all actions performed or to be performed by the Licensee or its Sub-Licensees as listed in Section 2.0: Scope of Services of this RFQ.
- (k) The term "Solicitation" to mean Request For Proposal RFQ733 document and all associated addenda and attachments.
- (l) The terms "Sub-Licensee" or "Subconsultant" to mean any person, firm, entity or organization, other than the employees of the Licensee, who contracts with the Licensee to furnish labor, or labor and materials, in connection with the Work or Services to the County, whether directly or indirectly, on behalf of the Licensee.
- (m) The term "Third-Party" to mean any company or sub-Licensee, other than the Licensee, who will provide software, and/or services in order to fulfill the requirements of Section 2.0: Scope of Services of this RFQ.
- (n) The terms "Work," "Services," "Program," "Project," or "Engagement" to mean all matters and things that will be required to be done by the Licensee in accordance with Exhibit A: Scope of Services of this Contract and the terms and conditions of this Solicitation.
- (o) The term "Licensor" to mean Miami-Dade County.

1. OPTION TO LICENSE

- a. In consideration of the initial non-reimbursable payment of five thousand dollars (\$5,000) (the "Option Fee") by Licensee to Licensor, Licensor hereby grants to Licensee an option to License the use of a portion of the real property described in the attached Exhibit A (the "Property") and to seek zoning approval for such use, on the terms and conditions set forth herein (the "Option"). The Option shall be for a term of one (1) year, commencing on the Effective Date (as defined in Section 22 below) (the "Option Period"). Subject to the Proposer actively seeking zoning approval, the Option Period may be extended by Licensee for three (3) additional three (3) month periods upon written notice to Licensor and an additional payment of the sum of five

thousand dollars (\$5,000) ("Additional Option Fee") for each such additional period at any time prior to the initial expiration of the Option Period.

- b. During the Option Period and any extension thereof, and during the Term of this License, Licensors agree, at no expense whatsoever to Licensors, to cooperate with Licensee in obtaining, at Licensee's expense but without any change to the terms of this License, all development approvals, licenses, easements and permits or authorizations required for Licensee's use of the License area (as defined below) from all applicable government and/or regulatory entities (including, without limitation, zoning and land use authorities, and the Federal Communication Commission ("FCC") (collectively "Governmental Approvals"), including appointing Licensee as agent for all permit applications, and Licensors agree to cooperate with and to allow Licensee, at no cost to Licensors, to obtain a title report and building permits and Licensors expressly grants to Licensee a right of access, subject to the provision of a Certificate of Insurance acceptable to the County, to the Property to perform surveys, soils tests, and other engineering procedures or environmental investigations on the Property, including, without limitation, the right to conduct and prepare a Phase One environmental assessment and/or baseline environmental assessment of the Property, or equivalent as permitted by applicable Federal or state law, necessary to determine that Licensee's use of the License area will be compatible with Licensee's engineering specifications, system design, operations and Governmental Approvals. Notwithstanding the foregoing, Licensee may not change the land use or zoning classification of the Property or offer, agree to or accept any Government Approvals in conflict with or which require any alteration or modification of the terms of this License without first obtaining Licensors' written consent. As needed, the Licensee shall prepare a complete set of schematic site plans, elevations and cost estimates, including any subsequent modifications thereof to the original set of plans included in the Proposal in response to this RFQ and as agreed upon by the County and the selected Proposer and, within three (3) months after having been selected by the County to proceed, submit them to the governmental body having jurisdiction over the property, for review and development approval. During the Option Period and any extension thereof, Licensee may for any reason reject the License by so notifying Licensors in writing, at Licensors' address in accordance with Section 12 hereof. Licensors are then free to seek another Licensee for the property without consideration for work or expense of first Licensee. Alternatively, during the Option Period and any extension thereof, Licensee may exercise the License by so notifying Licensors in writing, at Licensors' address in accordance with Section 12 hereof.
- c. Failure of the Licensee to affirmatively and timely notify the County that it is exercising its option to license the property, in accordance with the notification procedures set forth herein, before the expiration of the Option Period shall result in this Agreement being void and of no further force and effect.

- d. If Licensee exercises the License, then, subject to the terms and conditions set forth herein, Licenser hereby Licenses to Licensee the use of a prescribed portion of the Property for the placement of the Antenna Facilities and Tower (as defined below), according to the survey and legal description set forth in Exhibits A, B and C attached hereto (collectively referred to hereinafter as the "License Area").

2. TERM.

The initial term of this License shall be ten years (10) years commencing on the date of the exercise of the Option (the "Commencement Date"), and terminating at midnight on the last day of the initial term (the "Initial Term"). The word "Term" refers to both the Initial Term and Renewal Term (as defined below).

3. USE.

Except when and to the extent that the Facilities may be unusable by reason of damage by fire or other casualty, Licensee shall continuously and uninterruptedly use and operate only for purposes outlined herein all of the Facilities.

Each approximately ten foot (10 feet) section of the Tower may be used by Licensee for the transmission and reception of radio communication signals and for the construction, installation, operation, maintenance and repair of antenna and accessory wireless equipment (such as tower and base, antennas, equipment shelters and/or cabinets) in compliance with all applicable federal, state and local laws.

Licensee's right to use the Facilities is subject to and is limited by anything which would in any way (i) violate any legal requirements or insurance requirements; (ii) cause structural injury to the Park property or any part thereof; (iii) constitute a public or private nuisance; (iv) impair the appearance of the Park; (v) impair or interfere with the public use of the Park or common utility of its facilities; (vi) impair or interfere with the physical convenience of any Park visitor; or (vii) impair any of the Licensee's obligations under this Agreement.

4. SOVEREIGN RIGHTS:

It is expressly understood that notwithstanding any provisions of this Agreement and the County's status hereunder:

- a. The County retains all of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county or city under State law and shall in no way be stopped from

withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations whatever nature applicable to the planning, design, construction and development of the License Area and the Facilities or the operation thereof, or be liable for the same; and,

- b. the County shall not by virtue of this Agreement be obligated to grant any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Licensed Area and the Facilities.
- c. Notwithstanding and prevailing over any contrary provision in this Agreement, any County covenant or obligation that may be contained in this Agreement shall not bind the Board, the County's Planning and Zoning Department, DERM, or any other County, Federal or State Department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or other applicable governmental agencies in the exercise of its police power.

5. GROUND LICENSE FEE.

Licensee shall pay Licensor, as a ground license fee for the right to use and operate the License Area, \_\_\_\_ Thousand Dollars (\$\_\_,000) for the first year of the Initial Term of this License, and starting on the first annual anniversary of the Commencement Date, and each annual anniversary thereafter (including during "Renewal Terms", as defined below), increased and compounding by \_\_\_\_ percent (\_\_\_\_ %) per year (collectively "License Fee"). Any License Fee not paid within 10 days of the due date shall be assessed a 5% late fee and shall bear interest at 2% per month or (if less) at the highest rate allowed by law. If this License is terminated at a time other than on the last day before the anniversary date, then except as provided below License Fee shall be prorated as of the date of termination for any reason (other than a default by Licensee) and any prepaid License Fee shall be refunded to Licensee within thirty (30) days of the effective date of termination.

6. RENEWAL.

At the discretion of the Licensee, and subject to the Licensee not being in default, and the Licensee is in good standing with the Licensor, Licensee shall have the right to request an extension of this License prior to the expiration of the initial 10 year term, for a renewal term of 5 years. Such renewal terms shall

not exceed a maximum of four (4) renewal periods; five (5) year period each "Renewal Term". Each such request shall be in writing and sent by certified letter to MDPH in accordance with the notice provisions set forth in this Agreement at least one hundred and eighty (180) days prior to the expiration date of the Agreement but in no event earlier than one (1) year prior to the expiration date of the Agreement. Each Renewal Term shall be on the same terms and conditions as set forth herein, with License Fee continuing to increase and compound by \_\_\_\_ percent (\_\_\_\_ %) per year. Any holding over by Licensee after the expiration of the Initial Term and any Renewal Term shall be construed to be a license from month to month on the terms and on the conditions set forth herein, except that the License Fee under Section 4 and/or Section 5 shall be at twice the amount set forth therein, prorated and paid monthly in advance.

7. INTERFERENCE, TESTING AND RESERVATION.

- a. Licensee shall not use the License area in any way which interferes with the use of any portion of the Property by Licensor, or by lessees or Licensees of Licensor. Such interference shall be deemed a material breach by the Licensee, who shall, upon written notice from the other, be responsible for terminating said interference. In the event any such interference does not cease promptly, the Parties acknowledge that continuing interference may cause irreparable injury and, therefore, the Licensor shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this License immediately upon written notice.
- b. Both Licensor and Licensee shall be allowed to conduct radio frequency emission and interference studies from time to time to determine whether Licensee's use of the Antenna Facilities (as defined below) will interfere with Licensor's current or proposed use of the Property. In the event that such a study indicates that Licensee's use will potentially interfere with Licensor's current or proposed use of the Property, Licensee shall have ninety (90) days to remedy the interference to Licensor's satisfaction. If the problem is not so remedied in ninety (90) days, then Licensor may require Licensee, at Licensee's full expense, to relocate Licensee's equipment so as to remove or minimize the interference, to the extent Licensor deems necessary. Licensor shall permit Licensee to place temporary equipment (Cell on Wheels or similar installation) on Licensor's Property or at some other location acceptable to Licensee and Licensor, during relocation of License area.
- c. Licensor may, at its expense, perform tests as necessary to determine compliance of the equipment and equipment located on the License area with Federal radio frequency exposure limit rules, currently set forth at 47 C.F.R. Section 1.1310, or subsequent Federal rules as from time to time in effect.
- d. Licensee shall conduct an initial test for compliance with Federal radio frequency exposure limit rules prior to placing Licensee's equipment (or that of any sub-lessees of Licensee) on the License area into commercial operation, and Licensee shall perform additional tests upon any significant change in the equipment on the License area, such as sub-Licenses to third

parties for them to install communications equipment on the License area. All such testing shall be performed by a qualified radio engineer, and a copy of the test results shall be provided to all Parties. If such tests show noncompliance with applicable radio frequency exposure limit rules then in effect, then all communications equipment on the License area shall be shut down (except for work necessary to bring it into compliance) until subsequent tests again show compliance with such rules.

- e. Licensor does not grant, and reserves for itself, its lessees, successors and assigns, (i) all mineral rights, seismic rights and rights to oil, gas, other hydrocarbons or minerals on, as to, under or about any portion of the License area; and (ii) the right to grant to others the rights hereby reserved.

8. LICENSEE IMPROVEMENTS; UTILITIES; ACCESS.

- a. Licensee shall have the right, at its expense, to erect and maintain on the License area improvements, personal property and facilities necessary to operate its communications system, including, without limitation, radio transmitting and receiving antennas, tower and base, equipment shelters and/or cabinets and related cables and utility lines and a location based system, including, without limitation, antenna(s), coaxial cable, base units and other associated equipment (collectively, the "Antenna Facilities" or "Tower" where reference is made to the communications tower specifically) as set forth on and in accordance and compliance with Exhibits A, B, C and E. Exhibit A shall contain a survey of the Park upon which the Antenna Facilities will be located. Exhibit B shall contain a survey and legal description of the License area (including access route). Exhibit C shall contain a site plan which includes all buildings, structures, Tower, equipment cabinets, utility boxes, fences, any generator or provision for temporary generators, any fuel tanks or provision for temporary fuel tanks, any backup battery cabinets, and fences within the License area. Exhibit D shall contain elevation drawings for the Tower, equipment cabinets; fence detail; and specifications for all exterior colors, paint, other finishes and landscaping, all lying within the License area. These drawings, provided by the Licensee or its agents or Licensees must provide Licensor with photo simulations of what the License area and/or Property will look like upon construction of the Antenna Facilities as submitted for Exhibit D.
- b. Prior to commencing construction, Licensee shall submit plans and specifications for all improvements to Licensor for Licensor's written approval. No improvement, construction, installation or alteration shall be commenced until plans for such work have been approved by the Licensor in writing and all necessary permits have been properly issued.
- c. Licensee shall have the right to alter, replace, enhance or upgrade the Antenna Facilities at any time during the Term of this License to the extent that such changes do not substantially

differ from Exhibit B and Exhibit D. Any changes from Exhibit B and/or Exhibit D shall require Licensor's written approval.

- d. Licensee shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. If any lien is filed against the License area or Property as a result of acts or omissions of Licensee or Licensee's employees, agents or Licensees, Licensee shall discharge the lien or bond the lien off in a manner reasonably satisfactory to Licensor within thirty (30) days after Licensee receives written notice that the lien has been filed.
- e. Licensor acknowledges that except for Licensee's non-compliance with this License it shall not interfere with Licensee's construction within the License area, including, without limitation, attempting to direct construction personnel as to the location of or method of installation of the Antenna Facilities.
- f. Licensee, at its expense, shall use any and all appropriate means of restricting access to the Antenna Facilities, including the construction of a permanent fence as set forth on Exhibit B and/or Exhibit D, and if necessary, a temporary fence during construction. Licensor, may at its discretion, allow Licensee to locate Antenna Facilities within a property that will not require restrictive access and, wherever necessary, may require instead site improvements to facilitate public use.
- g. Licensee shall, at Licensee's expense, keep and maintain the Antenna Facilities now or hereafter located on the Property, with the exception of COUNTY installed equipment, in good condition and repair during the Term of this License, normal wear and tear excepted. Upon the termination or expiration of this License, Licensee at its expense shall restore and return the License area to Licensor in the same condition as they were prior to this License. Licensee shall remove footings, foundations and concrete to a depth of two feet below grade. If Licensor requests that Licensee not remove all or a portion of the improvements, title to the affected improvements shall thereupon transfer to Licensor, and thereafter the improvements shall be the sole and entire property of Licensor, and Licensee shall be relieved of its duty to otherwise remove same. Any personal property, equipment or other improvements which are not removed prior to the termination of this License shall become the property of Licensor, at Licensor's option. Notwithstanding any other provision of this License, Licensee's obligation to pay License Fee hereunder shall continue until Licensee has complied with this subsection (g).
- h. Licensee shall have the right to install underground utility lines serving the License area, at Licensee's expense, and to improve the present utilities on the Property, all at Licensee's expense, that do not place any unacceptable load or burden on the capacity of the applicable building systems of the Licensor. Licensor agrees to use reasonable efforts in assisting Licensee to acquire necessary utility service, provided Licensor does not have to expend any funds in doing so. Where legally required by a utility company, Licensor will, at Licensee's expense and through an approved survey, facilitate the provision of an access and utility

easement for Antenna Facilities to such utility company. Upon the expiration or termination of this License Agreement, any such easement granted shall automatically terminate and be of no further force and effect. Licensee shall install separate meters for utilities on the Property used by Licensee. Licensee shall pay when due all charges for utilities serving the License area during the Term of the License.

- i. As partial consideration for License Fee paid under this License, Licensor hereby grants Licensee the right for ingress, egress, utilities and access (including access for the purposes described in Section 1) to the License area adequate to install and maintain underground utilities, which include, but are not limited to, the installation of power and telephone service cable, and to access and service the License area and the Antenna Facilities at all times during the Initial Term of this License and any Renewal Term.
- j. Licensee shall have 24-hours-a-day, 7-days-a-week access to the License area ("Access") at all times during the Initial Term of this License and any Renewal Term. Licensor and its agents shall have the right to enter the License area at all times to examine and inspect the Tower, equipment and structures and the License area inclusive of County-owned and installed equipment; however, Licensor, its employees or agents shall not impede or deny Access to Licensee, its employees or agents.
- k. Prior to Licensee commencing construction on the Property, Licensee shall provide Licensor with the name of the Licensee that will be constructing the improvements. The Licensee is subject to the prior written approval of Licensor, such approval not to be unreasonably withheld.
- l. Licensee shall, prior to commencing any construction on the License area, post a payment and performance bond in compliance with the requirements of Section 255.05, Florida Statutes, and in a form and with a surety company reasonably acceptable to Licensor. Licensee shall, following completion of construction, post a removal bond (or, at Licensee's option, a letter of credit) from a surety or bank reasonably acceptable to Licensor, and in an amount deemed necessary, as determined by the County, to assure that the funds will be available at the termination of the License for removal of the Antenna Facilities.
- m. Licensee may not place or allow the placement of any signs or graffiti on the License area, except for those required for emergency notification and identification, or as required by law or rule. After thirty (30) days' notice to remove, Licensor at any time may enter the License area and undertake any activities necessary to abate or remove graffiti located therein. Licensee shall reimburse Licensor all costs incurred by Licensor in connection with such abatement or removal within thirty (30) days of Licensor's presenting Licensee with a statement of such costs.
- n. Licensee shall, at its own expense, maintain the License area and all improvements, equipment and other personal property on the License area in good working order, condition and repair. Licensee shall keep the License area free of debris and anything of a dangerous,

noxious or offensive nature or which would create a hazard or source of undue vibration, heat, noise or interference.

- o. Notwithstanding any provision in this License to the contrary, Licensor shall have the right, at any time during the Term of this License, to request the relocation of the Tower and Antenna Facilities, or any portion of them, at Licensor's expense, to another location reasonably suitable for Licensee's use. Licensee shall be given at least 180 days notice of such relocation, shall fully cooperate in such relocation, and Licensor shall reimburse Licensee's reasonable costs associated therewith. Licensor shall permit Licensee to place a temporary Antenna Facility (Cell on Wheels or similar installation) on Licensor's Property or at some other location reasonably acceptable to Licensee, at Licensor's costs until such relocation is complete.
- p. Licensee shall be allowed to place one (1) permanent generator on the License area. The generator shall be of a size, location and configuration that it can effectively and consistently provide power to Licensee's facilities and that of all co-located facilities by other providers.
- q. Licensee acknowledges and accepts full responsibility for the security and protection of its equipment, other personal property and money used in connection with the requirements of this Agreement. Licensor has no obligation, and makes no warranties as to any obligation, to provide security for the Facilities. Licensee may provide its own specialized security for the Facilities, subject to the County's prior written approval. Absence of said Licensee security measures shall not create a security obligation on behalf of the County.

9. COLLOCATION BY OTHER PROVIDERS.

- a. Licensee shall design and construct the Tower, at elevations not to exceed 120 feet above ground level, to accommodate and with adequate separation between them, the transmitting and receiving antennas for what is commonly known as cellular telephone service and defined in approximate ten (10) foot increments of at least three (3) radio telecommunications providers licensed to provide such service to the public. One ten (10) foot section, located no less than seventy (70) feet above ground level, shall be reserved for the Licensor (COUNTY). Licensor has the express right to collocate on the above described location without further cost to the Licensee and to install, maintain and service its own equipment without interference by the Licensee.
- b. The License area may only be managed by one entity (Licensee) but may be sub-licensed as set forth in subsections (d) and (e) below.
- c. Licensee may Sub-License space on the Tower to other providers of licensed or unlicensed telecommunications services ("Other Providers"), and such sub-Licenses shall only be for the antenna (transmitting antennas, receiving antennas and WI-MAX) portion of the Antenna Facilities of such Other Providers, and only for uses permitted under Section 3.

- d. Each Other Provider shall be solely responsible both for the cost of placing its antennas on the License area and for any liabilities that arise from the Other Provider's use of the License area.
- e. Other Providers are required to execute a written Sub-License Agreement with Licensee, which is subject to all of the terms and conditions of this License. If this License Agreement expires or is earlier terminated by one or both of the Parties, the Sub-License Agreement(s) shall likewise automatically terminate or expire. Each Sub-License Agreement shall require that the Other Provider shall pay Licensee, as co-location fee, a sub-license fee. Licensee shall, in turn, pay the County no less than \_\_\_\_\_ (\_\_\_%) of the sub-License fee collected by the Licensee from the Other Provider(s), starting in the year of the Initial Term of this License and each annual anniversary thereafter including during Renewal Terms. The percentage of the Sub-License fee to be paid to the County by the Licensee shall be increased and shall compound by no less than \_\_\_\_\_ percent (\_\_\_\_\_ %) per year (collectively "Additional License Fee"). Any Additional License Fee not paid within 10 days of the due date shall be assessed a 5% late fee and shall bear interest at 2% per month or (if less) at the highest rate allowed by law. If this License is terminated at a time other than on the last day before the anniversary date, then except as provided below, the Additional License Fee shall be prorated as of the date of termination for any reason (other than a default by Licensee) and any prepaid Additional License Fee shall be immediately refunded to Licensee.

10. TERMINATION.

Notwithstanding anything contained herein to the contrary, this License may be terminated, without any penalty or further liability as follows:

- a. Automatic termination, without the need for notice or action by the County upon:
  - i. Institution of proceedings in voluntary bankruptcy or reorganization by the Licensee.
  - ii. Institution of proceedings in involuntary bankruptcy against the Licensee if such proceedings continue for a period of ninety (90) days.
  - iii. Assignment by Licensee for the benefit of creditor.
  - iv. Abandonment or discontinuation of Licensee's operations, in the sole opinion of the County, for more than a seventy-two (72) hour period without prior written approval from the County.
  - v. The discovery of any misstatement in the Licensee's proposal leading to award of this Agreement, which in the determination of the County significantly affects the Licensee's qualifications to perform under the Agreement.
  - vi. Licensee becoming insolvent.

- vii. Failure to cease any activity which may cause limitation of County's use of the Park.
  
- b. Upon thirty (30) days' written notice by Licensor to Licensee, if Licensee fails to cure a default for payment of amounts due under this License within that thirty (30) day period;
- c. After twelve (12) months, written notice is provided by Licensee to Licensor indicating that despite diligent effort by Licensee, Licensee is unable to obtain or maintain, any license, permit or any Governmental Approval necessary for the installation and/or operation of the Antenna Facilities, through no fault of Licensee;
- d. Upon ninety (90) days' written notice by Licensee if destruction or damage to the Antenna Facilities substantially and adversely affects their effective use, and if such destruction or damage to the Antenna Facilities was caused through no fault or negligence of Licensee, its contractors, agents, employees or affiliates, and if such destruction or damage cannot reasonably be cured within such ninety (90) days.
- e. At the time title, or the right to control or to occupy the License area transfers to a condemning authority, pursuant to a taking of all or a portion of the License area sufficient to render the License area unsuitable for Licensee's use. Sale of all or part of the License area to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation.

11. DEFAULT AND RIGHT TO CURE.

- a. Without waiving any other rights granted to it at law or in equity, each Party shall have the right, but not the obligation, to terminate this License on written notice pursuant to Section 12 hereof, to take effect immediately, if the other Party (i) fails to perform any material covenant for a period of thirty (30) days after receipt of written notice thereof to cure or (ii) commits a material breach of this License and fails to diligently pursue such cure to its completion after thirty (30) days' written notice to the defaulting Party.
- b. Habitual Default: Notwithstanding the foregoing, in the event that the Licensee has repetitively defaulted (4) four times within a twenty-four (24) month period, in the performance of or breached any of the terms, covenants and conditions required herein to be kept and performed by the Licensee, including payment of any Licensee fees when due, regardless of whether the Licensee has cured each individual condition of breach or default as provided herein above, the Licensee may be determined by the Licensor to be in "habitual default". At the time that such determination is made, the Licensor shall issue to the Licensee a written notice advising of such determination and citing the circumstances therefore. Such notice

shall also advise the Licensee that there shall be no further notice or grace periods to correct any subsequent breaches or defaults and that any subsequent breach(es) or default(s), of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and, collectively, shall constitute a condition of non-curable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, Licensor may terminate this Agreement upon the giving of written notice of termination to the Licensee, such termination to be effective upon the tenth (10) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Licensee shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the Licensee shall discontinue its operations at the Park, and proceed to remove all structures and its personal property in accordance with this agreement.

In the event of a default, Licensor shall have the right, at its option, in addition to and not exclusive of any other remedy Licensor may have by operation of law, without any further demand or notice, to enter the License area and eject all persons therefrom, and declare this License at an end, in which event Licensee shall immediately remove the Tower (and proceed as set forth in Section 8) and pay Licensor a sum of money equal to the total of (i) the amount of the unpaid License Fees and Additional fees accrued through the date of termination; (ii) the amount by which the unpaid License Fees and Additional Fees reserved for the balance of the Term exceeds the amount of such rental loss to Licensor that could be reasonably avoided (net of the costs of such re-letting); and (iii) any other amount necessary to compensate Licensor for all detriment proximately caused by Licensee's failure to perform its obligations under the License.

- c. No entry and taking of possession of the License area by Licensor shall be construed as an election on Licensor's part to terminate this License, regardless of the extent of renovations and alterations by Licensor, unless a written notice of such intention is given to Licensee by Licensor.
- d. If suit shall be brought by Licensor for recovery of use or possession of the License area, removal of Licensee's equipment, for the recovery of any amount due under the provisions of this License, or because of the breach of any other covenant, the Licensee shall pay to the Licensor all expenses incurred therefore, except that each party shall pay their own attorney's fees.
- e. In the event of any default of this License by Licensee, the Licensor may at any time, after notice given as set forth in subsection (a) above, cure the default for the account of and at the expense of the Licensee. If Licensor is compelled to pay or elects to pay any sum of money or to do any act which will require the payment of any sum of money or is compelled to incur any expense in instituting, prosecuting or defending

any action to enforce the Licensor's rights under this License, the sums so paid by Licensor, with all interest, costs and damages shall be deemed to be License Fee otherwise due and shall be added to the License Fee and shall be due from the Licensee to Licensor on the first day of the month following the incurring of the respective expenses.

12. TAXES.

Licensee shall pay any personal property tax, improvement tax, franchise fee, franchise tax, business fee, business tax or any other tax or fee which is directly or indirectly attributable to the this License, presence or installation of the Licensee's Antenna Facilities (including the Tower) or those of an Other Provider, or Licensee's (or an Other Provider's) presence or operations on the License area.

13. INSURANCE, SUBROGATION and INDEMNIFICATION.

- a. Licensee shall provide commercial general liability insurance and pollution liability insurance in an aggregate amount of Five Million and no/100 Dollars (\$5,000,000) with a minimum combined single limit for each occurrence of One Million Dollars (\$1,000,000); "All Risk" property insurance for its property replacements costs; and statutory Worker's Compensation Insurance as required by law at a minimum of One Million and no/100 dollars (\$1,000,000); and Automobile liability insurance covering all owned, hired, and non-owned vehicles in use by Licensee and its employees with personal injury protection insurance and property protection insurance to comply with the provisions of state law with minimum limits of Two Million Dollars (\$2,000,000) as the combined single limit for each occurrence for bodily injury and property damage. Licensor shall be named as an additional insured on the commercial general liability and pollution liability insurance and automobile liability policies and shall be provided with a Certificate of Insurance as requested by Licensor at the Effective Date of this License and subsequently. Each insurance policy required under this Section shall require a thirty (30) day prior written notice to Licensor upon any termination or material modification of such policy. Licensee may satisfy this requirement by obtaining the appropriate endorsement to any master policy of liability insurance Licensee may maintain. All insurance policies may be written with commercially reasonable deductibles but not with retainages.
- b. Licensee shall provide at the start of and during the period of any construction, builders all-risk insurance, together with an installation floater or equivalent property coverage covering cables, materials, machinery and supplies of any nature whatsoever which are to be used in or incidental to the installation of the Tower. Upon completion of the installation of the Tower, Licensee shall substitute for the foregoing insurance policies of fire, extended coverage and

vandalism and malicious mischief insurance on the License area. The amount of insurance at all times shall be representative of the insurable values installed or constructed.

- c. Licensee shall require that each and every one of its Licensees and their sub-Licensees who perform work on the License area to carry, in full force and effect, workers' compensation, commercial general liability, pollution liability and automobile liability insurance coverage's of the type, with the restrictions, and in the amounts which Licensee is required to obtain under the terms of this License.
- d. The commercial general liability and pollution liability insurance and automobile liability policies required under this agreement shall name Licensor and any subsidiary entities of Licensor, now existing or hereafter created, and their respective officers, boards, commissions, trustees, employees, and agents as additional insureds (herein referred to as the "Additional Insureds"). Each policy which adds Additional Insureds hereunder shall contain cross-liability wording, as follows:

"In the event of a claim being made hereunder by one insured for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is or may be made in the same manner as if separate policies had been issued to each insured hereunder."

- e. Certificates of insurance for each insurance policy required to be obtained by Licensee in compliance with this Section with the COUNTY as additional insured shall be filed and maintained with Licensor annually during the Term of the License. Licensor may request, and Licensee shall provide copies of the actual insurance policies required in lieu of, or in addition to, certificates of insurance required. Licensee shall advise Licensor as soon as reasonably possible of any claim or litigation that may result in liability to Licensor or material reduction in available limits of coverage under the insurance policies described above. All insurance policies maintained pursuant to this License shall contain the following endorsement:

"At least sixty (60) days prior written notice shall be given to Licensor by the insurer of any intention not to renew such policy or to cancel same."

- f. All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of Florida or (if allowed by the laws of the State of Florida) surplus line carriers on the State of Florida Insurance Commissioner's approved list of companies qualified to do business in the State of Florida. All insurance carriers and surplus line carriers shall be rated A ("A") or better by A.M. Best Company.

- g. Once during each calendar year during the Term of this License, Licensor may review the insurance coverages to be carried by Licensee. If Licensor determines that higher limits of coverage are reasonably necessary to protect the interests of Licensor or the Additional Insureds, Licensee shall be so notified and shall obtain the additional limits of insurance, at its sole cost and expense, but each new limit shall not exceed the corresponding limit set forth in (a) above escalated for inflation (computed according to the Consumer Price Index for All Urban Consumers, All Items, All Areas, December 2009=100, with November 2009 as the base point).
- h. Licensee agrees to indemnify and hold harmless the Licensor (County) from and against any and all claims, damages, cost and expenses, including reasonable attorney fees, to the extent caused by or arising out of (i) the negligent or grossly negligent acts or omissions by the Licensee or the employees, agents, Licensees, and/or sub-Licensees of the Licensee; (ii) a breach of any obligation of the Licensee under this License; (iii) any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Licensor by reason of any act or omission of the Licensee, its personnel, employees, agents, trustees, Licensees or sub-Licensees, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the License area or the Licensee's failure to comply with any federal, state or local statute, ordinance or regulation. Licensor shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of Licensee's construction, maintenance, repair, use, operation, condition or dismantling of the Antenna Facilities, Tower or License area, and Licensee hereby agrees to indemnify and hold harmless the Licensor against and from any claim asserted or liability imposed upon the Licensor for such injury or damage.
- i. The Licensor (County) does hereby agree to indemnify and hold harmless the Licensee to the extent and within the limitations of Section 768.28 Fla. Stat., (as may be hereafter amended) subject to the provisions of that Statute whereby the County shall not be held liable to pay a person injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000, or any claim or judgments of portions thereof, which, when totaled with all other occurrences, exceeds the sum of \$200,000, from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise solely as a result of the negligence of the County. However, nothing herein shall be deemed

to indemnify the Licensee from any liability or claim arising out of the negligent performance or failure of performance of the Licensee or any unrelated third party.

- j. Licensee undertakes and assumes for its officers, agents, affiliates, Licensees and sub-Licensees and employees (collectively "Licensee" for the purpose of this subsection), all risk of dangerous conditions, if any, on or about the Property.
- k. Notwithstanding the foregoing, indemnification under this Section 11 and Section 14 shall not extend to loss of profits, income or business opportunities to the indemnified Party or anyone claiming through the indemnified Party. Notwithstanding anything to the contrary in this License, the Parties hereby confirm that the provisions of this Section 11(h) through (k) shall survive the expiration or termination of this License.

14. NOTICES.

- a. All notices, requests, demands and other communications shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. Licensor or Licensee may from time to time designate any other address for this purpose by providing written notice to the other Party.

If to Licensee, to:

---

---

---

---

---

With a copy to:

---

---

---

---

---

If to Licensor, to:

County Executive Offices  
Miami-Dade County  
111 NW 1 Street, 29 Floor  
Miami, Florida 33128

With a copy to:

Director  
Miami-Dade County Park and Recreation Dept.  
275 NW 2 Street, 5 Floor  
Miami, Florida 33128

- b. Notice for all operational and emergency contacts shall initially be as follows. Licensor and Licensee shall each notify the other as the following change from time to time:

If to Licensee, for general operational matters:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Licensee Emergency Services contact:

Network operations center – 800-\_\_\_\_ - \_\_\_\_\_

If to Licensor, for general operational matters:

Park and Recreation Department  
Contracts Management  
Attn: Bill Solomon  
275 NW 2 St., 5 FL  
Miami, FL 33128

Licensor Emergency Services contact:

305-755-7873

15. AUTHORITY.

Licensor covenants and warrants to Licensee that (i) Licensor has full right, power and authority to execute this License; and (ii) execution and performance of this License will not violate any laws, ordinances, covenants, or the provisions of any lease, License, or other agreement binding on Licensor.

16. ENVIRONMENTAL LAWS.

Licensee, its officers, agents, affiliates, Licensees and sub-Licensees and employees, shall not introduce or use any Hazardous Substance on the Property or License area in violation of any applicable law. "Hazardous substance" means any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term pursuant to any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease. Licensee agrees to defend, indemnify and hold harmless Licensor from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that the Licensor may suffer or incur due to the existence or discovery of any Hazardous Substances on the Property or the migration of any Hazardous Substance to other properties or the re-License of any Hazardous Substance into the environment, that relate to or arise from Licensee's activities, or those of its officers, agents, affiliates, Licensees and sub-Licensees and employees. The indemnification in this section specifically includes, without limitation, costs incurred in connection with any investigation of site

conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. This Section 14 shall survive the termination or expiration of this License.

17. ASSIGNMENT AND SUB-LICENSING.

(a) Licensee shall have the right, subject to prior County approval which shall be given or denied at the County's sole discretion, to assign or otherwise transfer this License to any person or business entity which (i) holds a currently valid FCC license to provide to the public from the License area what are commonly known as cellular telephone services and/or WiMAX services complying with IEEE 802.16, (ii) is a parent, subsidiary or affiliate of Licensee, is merged or consolidated with Licensee or purchases more than fifty percent (50%) of either an ownership interest in Licensee or the assets of Licensee in the "Metropolitan Trading Area" or "Basic Trading Area" (as those terms are defined by the FCC) in which the Property is located, and (iii) which has a credit rating from one of the three largest national credit rating agencies greater than or equal to that of Licensee at the time of the assignment. Upon notice to Licensor and written approval by COUNTY of such assignment, Licensee shall be relieved of all liabilities and obligations hereunder and Licensor shall look solely to the assignee for performance under this License and all obligations hereunder; provided assignee accepts this License in full, without amendments or changes thereto, steps into the shoes of Licensee, including being responsible and liable for events or defaults which occurred prior to the assignment, and cures any outstanding defaults of their respective successors, personal representatives and assigns.

18. TREATMENT IN BANKRUPTCY.

The Parties to this License hereby expressly agree and acknowledge that it is the intention of both Parties that in the event that during the Term of this License Licensee shall become a debtor in any voluntary or involuntary bankruptcy proceeding (a "Proceeding") under the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.* (the "Code"), this License is and shall be treated as an executory contract or unexpired License of nonresidential real property for purposes of Section 365 of the Code, 11 U.S.C. § 365, and, accordingly, shall be subject to the provisions of subsections (c)(1), (d)(3) and (d)(4) of said Section 365.

19. FORCE MAJUERE.

If a Party is delayed or hindered in, or prevented from the performance required under this License (except for payment of monetary obligations) by reason of earthquakes, landslides, strikes, lockouts, labor troubles, failure of power, riots, insurrections, war, acts of God or other reasons of like nature, not the fault of the Party delayed in performing work or doing acts, and where reasonable measures by such Party could not have avoided or mitigated the effects of such acts, then such Party is excused from such performance for the period of delay. The period for the performance of any such act shall then be

extended for the period of such delay. In the event that Licensee invokes this provision because damage to the License area has hindered, delayed, or prevented Licensee from using the License area, Licensee may immediately erect any temporary facilities on the License area necessary to resume service, provided that such temporary facilities do not unreasonably interfere with Licensor's use of the Property or ability to repair or restore the License area. If, in Licensor's sole and absolute discretion, it elects to repair or restore the License area, upon completion of such repair or restoration, Licensee is obligated to repair or rebuild the Tower and Antenna Facilities in accordance with the terms of this document.

20. NON-WAIVER.

Failure of Licensor to insist on strict performance of any of the conditions, covenants, terms or provisions of this License or to exercise any of its rights hereunder shall not waive such rights, but Licensor shall have the rights to enforce such rights at any time and take such action as might be lawful or authorized hereunder, either in law or equity. The receipt of any sum paid by Licensee to Licensor after a breach of this License shall not be deemed a waiver of such breach unless expressly set forth in writing.

21. ORDER OF PRECEDENCE.

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Scope of Services (Appendix A), 3) the Price Schedule (Appendix B), 4) the Miami-Dade County's RFQ No. TBD and any associated addenda and attachments thereof, and 5) the Licensee's Proposal.

22. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST.

a) Vendor Registration. The Licensee shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Licensee confirms its knowledge of and commitment to comply with the following:

1. ***Miami-Dade County Ownership Disclosure Affidavit***  
(Section 2-8.1 of the County Code)
2. ***Miami-Dade County Employment Disclosure Affidavit***  
(Section 2.8-1(d)(2) of the County Code)
3. ***Miami-Dade Employment Drug-free Workplace Certification***  
(Section 2-8.1.2(b) of the County Code)
4. ***Miami-Dade Disability and Nondiscrimination Affidavit***  
(Section 2-8.1.5 of the County Code)
5. ***Miami-Dade County Debarment Disclosure Affidavit***  
(Section 10.38 of the County Code)
6. ***Miami-Dade County Vendor Obligation to County Affidavit***  
(Section 2-8.1 of the County Code)

**7. Miami-Dade County Code of Business Ethics Affidavit**

(Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)

**8. Miami-Dade County Family Leave Affidavit**

(Article V of Chapter 11 of the County Code)

**9. Miami-Dade County Living Wage Affidavit**

(Section 2-8.9 of the County Code)

**10. Miami-Dade County Domestic Leave and Reporting Affidavit**

(Article 8, Section 11A-60 11A-67 of the County Code)

**11. Subcontracting Practices**

(Ordinance 97-35)

**12. SubLicensee /Supplier Listing**

(Section 2-8.8 of the County Code)

**13. Environmentally Acceptable Packaging**

(Resolution R-738-92)

**14. W-9 and 8109 Forms**

(as required by the Internal Revenue Service)

**15. FEIN Number or Social Security Number**

In order to establish a file, the Licensee's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Licensee's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- Identification of individual account records
- To make payments to individual/Licensee for goods and services provided to Miami-Dade County
- Tax reporting purposes
- To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

**16. Office of the Inspector General**

(Section 2-1076 of the County Code)

**17. Small Business Enterprises**

The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

**18. Antitrust Laws**

By acceptance of any contract, the Licensee agrees to comply with all antitrust laws of the United States and the State of Florida.

**23. GOVERNING LAW.**

This Agreement, including appendices, and all matters relating to this Agreement (whether in Agreement, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida.

**24. SEVERABILITY.**

If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

25. EMPLOYEES ARE THE RESPONSIBILITY OF THE LICENSEE.

All employees of the Licensee shall be considered to be, at all times, employees of the Licensee under its sole direction and not employees or agents of the County. The Licensee shall supply competent employees. Miami-Dade County may require the Licensee to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

26. INDEPENDENT LICENSEE RELATIONSHIP.

The Licensee is, and shall be, in the performance of all work services and activities under this Agreement, an independent Licensee, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Licensee's sole direction, supervision and control. The Licensee shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Licensee's relationship and the relationship of its employees to the County shall be that of an independent Licensee and not as employees and agents of the County.

The Licensee does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

27. MANNER OF PERFORMANCE.

- a. The Licensee shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Licensee in all aspects of the Services. At the request of the County the Licensee shall promptly remove from the project any Licensee's employee, sub-Licensee, or any other person performing Services hereunder. The Licensee agrees that such removal of any of its employees does not require the termination or demotion of any employee by the LICENSOR -.
- b. The Licensee agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Licensee agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, which said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.

- c. The Licensee warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- d. The Licensee shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- e. The Licensee shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

28. AUTHORITY OF THE COUNTY'S PROJECT MANAGER.

- a. The Licensee hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b. The Licensee shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Licensee agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c. The Licensee must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Licensee and the Project Manager are unable to resolve their difference, the Licensee may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- d. In the event of such dispute, the parties to this Agreement authorize the County Mayor or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Mayor within 10 days of the occurrence, event or act out of which the dispute arises.
- e. The County Mayor or designee may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an

independent and objective determination of whether Licensee's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Mayor or designee participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Licensee to the County Mayor for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Mayor is entitled to exercise discretion or judgment or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Mayor, as appropriate, shall render a decision in writing and deliver a copy of the same to the Licensee. Except as such remedies may be limited or waived elsewhere in the Agreement, Licensee reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

29. MUTUAL OBLIGATIONS.

- a. This Agreement, including attachments and appendixes to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- b. Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c. In those situations where this Agreement imposes an indemnity obligation on the Licensee, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Licensee fails to diligently defend such claims, and thereafter seek indemnity for costs from the Licensee.

30. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING.

The Licensee shall maintain, and shall require that its sub-Licensees and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Licensee and its sub-Licensees and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

31. AUDITS.

The County, or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Licensee's books, documents, papers and records and of its sub-Licensees and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to County Ordinance No. 03-2, the Licensee will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Licensee agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

32. SUBSTITUTION OF PERSONNEL.

In the event the Licensee wishes to substitute personnel for the key personnel identified by the Licensee's Proposal, the Licensee must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

35. SUBCONTRACTUAL RELATIONS.

- a. If the Licensee will cause any part of this Agreement to be performed by a Sub-Licensee, the provisions of this Contract will apply to such Sub-Licensee and its officers, agents and employees in all respects as if it and they were employees of the Licensee; and the Licensee will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Sub-Licensee, its officers, agents, and employees, as if they were employees of the Licensee. The services performed by the Sub-Licensee will be subject to the provisions hereof as if performed directly by the Licensee.
- b. The Licensee, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Sub-Licensee, the portion of the Services which the Sub-Licensee is to do, the place of business of such Sub-Licensee, and such other information as the County may require. The County will have the right to require the Licensee not to award any subcontract to a person, firm or corporation disapproved by the County.
- c. Before entering into any subcontract hereunder, the Licensee will inform the Sub-Licensee

fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Sub-Licensee will strictly comply with the requirements of this Contract.

- d. In order to qualify as a Sub-Licensee satisfactory to the County, in addition to the other requirements herein provided, the Sub-Licensee must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Sub-Licensee must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.
- e. The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Licensee's obligations under this Agreement. All Sub-Licensees are required to protect the confidentiality of the County's and County's proprietary and confidential information. Licensee shall furnish to the County copies of all subcontracts between Licensee and Sub-Licensees and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Sub-Licensee of its obligations under the subcontract, in the event the County finds the Licensee in breach of its obligations, the option to pay the Sub-Licensee directly for the performance by such sub-Licensee. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any sub-Licensee hereunder as more fully described herein.

36. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS.

The Licensee understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Licensee for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn there from; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Licensee. The Licensee accepts all risk associated with using this information.

37. PATENT AND COPYRIGHT INDEMNIFICATION.

- a. The Licensee warrants that all Deliverables furnished hereunder, including but not limited to: equipment programs, documentation, software, analyses, applications, methods, ways,

processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.

- b. The Licensee shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Licensee at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.
- c. In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Licensee shall have the obligation to, at the County's option to (i) modify, or require that the applicable sub-Licensee or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Licensee's expense, the rights provided under this Agreement to use the item(s).
- d. The Licensee shall be solely responsible for determining and informing the County whether a prospective supplier or sub-Licensee is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Licensee shall enter into agreements with all suppliers and sub-Licensees at the Licensee's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.
- e. The Licensee shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

### 38. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS.

Licensee agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

- a. Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b. Miami-Dade County Florida, Department of Small Business Development Participation

Provisions, as applicable to this Contract.

- c. Environmental Protection Agency (EPA), as applicable to this Contract.
- d. Miami-Dade County Code, Article 7. All Licensees and sub-Licensees shall be restricted from using the tower or associated equipment to install advertising signage for the Licensee, sub-Licensee or any other entity. The aforesaid provision shall not address signage required by federal, state and county regulatory authorities to advise caution around certain equipment or to notify the entity of an unsafe condition.
- e. Miami-Dade County Code, Chapter 11A, Article 3. All Licensees and sub-Licensees performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Licensee agrees to post in conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.
- f. "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.
- g. Miami-Dade County Code Section 10-38 "Debarment".
- h. Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.
- i. Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

Notwithstanding any other provision of this Agreement, Licensee shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Licensee, constitute a violation of any law or regulation to which Licensee is subject, including but not limited to laws and regulations requiring that Licensee conduct its operations in a safe and sound manner.

39. NONDISCRIMINATION.

During the performance of this Agreement, Licensee agrees to not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Licensee attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Licensee or any owner, subsidiary or other firm affiliated with or related to the Licensee is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Licensee submits a false affidavit pursuant to this Resolution or the Licensee violates the Act or the Resolution during the term of this Contract, even if the Licensee was not in violation at the time it submitted its affidavit.

40. CONFLICT OF INTEREST.

The Licensee represents that:

- a. No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.
- b. There are no undisclosed persons or entities interested with the Licensee in this Agreement. This Agreement is entered into by the Licensee without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
  - i) is interested on behalf of or through the Licensee directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
  - ii) is an employee, agent, advisor, or consultant to the Licensee or to the best of the Licensee's knowledge any sub-Licensee or supplier to the Licensee.
- c. Neither the Licensee nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Licensee shall have an interest which is in conflict with the Licensee's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Licensee provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

- d. The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e. In the event Licensee has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Licensee shall promptly bring such information to the attention of the County's Project Manager. Licensee shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Licensee receives from the Project Manager in regard to remedying the situation.

41. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION.

Under no circumstances shall the Licensee without the express written consent of the County:

- a. Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Licensee first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable;
- b. Communicate in any way with any Licensee, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County;
- c. Except as may be required by law, the Licensee and its employees, agents, sub-Licensees and suppliers will not represent, directly or indirectly, that any product or service provided by the Licensee or such parties has been approved or endorsed by the County.

42. MISCELLANEOUS.

- a. This License constitutes the entire agreement and understanding of the Parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this License must be in writing and executed by both Parties.
- b. The persons who have executed this License represent and warrant that they are duly authorized to execute this License in their individual or representative capacity as indicated.
- c. All Exhibits referred to herein or attached hereto are incorporated herein for all purposes.

- d. Licensor hereby expressly disclaims all Warranties of Merchantability and Fitness for a Particular Purpose associated with the License area. Licensee accepts the License area “As Is and Whereas.”

DRAFT

IN WITNESS WHEREOF, the parties have executed this Agreement effective as defined herein and set forth above. By the signatures below, each part hereby represents and warrants that each individual is duly authorized to enter into and execute this Agreement for and on behalf of the respective organizations.

**Licensee:**

*[Insert formal name of Licensee]*

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Corporate Secretary

Corporate Seal

**LICENSOR:**

Miami-Dade County

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Reviewed: \_\_\_\_\_

Attest: \_\_\_\_\_

*Clerk of the Board*

Approved by County Attorney as to  
Form and Legal Sufficiency

\_\_\_\_\_  
Assistant County Attorney

# **EXHIBIT 2**

## **GENERAL TERMS and CONDITIONS**

**(County Agreement)**

**DRAFT**

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PARENT PARCEL**  
**OWNED BY LICENSOR**  
**[ATTACH SURVEY SHOWING LEGAL AND**  
**BOUNDARY OF LICENSE AREA]**

DRAFT

**EXHIBIT B**  
**SITE PLAN**  
**(ATTACH SITE PLAN INCLUSIVE OF ACCESS**  
**LOCATION)**

DRAFT

## **EXHIBIT C**

### **LEGAL DESCRIPTION OF LICENSE AREA**

**[ATTACH SURVEY OF LEGAL AND BOUNDARY  
OF LICENSE AND ACCESS ROUTE]**

**DRAFT**

**EXHIBIT D**  
**MEMORANDUM OF LICENSE**

**[ATTACH MEMORANDUM OF LICENSE]**

**DRAFT**

## **EXHIBIT E**

# **PHOTO SIMULATIONS OF THE THE LICENSE AREA AND PROPERTY UPON COMPLETION OF CONSTRUCTION**

**[ATTACH PHOTO SIMULATIONS]**

**DRAFT**