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Town of Rowley, Massachusetts
REQUEST FOR PROPOSALS
Lease of Land for Wireless Communications Facility

The Town of Rowley, Massachusetts, is soliciting proposals from qualified entities for a 10-year lease, with two successive options for renewal of ten (10) years, of a portion of land on Smith Lane off Haverhill Street for the purpose of operating and maintaining an existing Wireless Communications Facility or to construct, operate, and maintain a new Wireless Communications Facility. The land is identified on Rowley Assessors Map 13, Parcel 14. The Request for Proposals (RFP) documents and specifications are available on the Town's website procurement page at: www.townofrowley.net and in the Office of the Rowley Board of Selectmen, Town Hall, 139 Main Street, Rowley, MA 01969 between 10:00 a.m. and 2:00 p.m. (Monday – Thursdays) and 9:30 a.m. to 11:30 a.m. on Fridays. Proposals will be accepted until September 18, 2020 at 10:00 a.m. at the Office of the Board of Selectmen. The Rowley Board of Selectmen is the awarding authority. The Town of Rowley reserves the right to cancel this RFP and to reject any or all proposals if that cancellation or rejection serves the best interest of the Town of Rowley.

TOWN OF ROWLEY

REQUEST FOR PROPOSALS

LEASE OF LAND FOR WIRELESS COMMUNICATIONS FACILITY

August 19, 2020

Contact	Deborah Eagan
	Town Administrator
Address	Town Hall
	139 Main Street
	Rowley, MA 01969
Telephone Number:	978-948-2705
Email	debbie@townofrowley.org

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1. Introduction

The Town of Rowley (the “Town”) is soliciting proposals from qualified entities for a 10-year lease (with two successive options for renewal of 10 years) of a portion of a certain parcel of land for the purpose of operating and maintaining an existing Wireless Communications Facility (or to construct a new such facility and to operate and maintain it) on a parcel of land on Smith Lane off Haverhill Street identified on Rowley Assessors Map 13 Parcel 14 in Rowley. Qualified proposers are requested to submit proposals to the Town Administrator at Rowley Town Hall, 139 Main Street, Rowley, MA (01969), in accordance with the instructions contained within this Request for Proposals (RFP).

Notice of this RFP is published in the Central Register (which is a weekly publication of the Office of the Secretary of the Commonwealth) and the Newburyport Daily News (a newspaper of general circulation) and posted on the Town website (www.townofrowley.net) on the Procurement Page.

The Town will accept proposals delivered in person or by mail. All proposals must be received by Friday, September 18, 2020 at 10:00 a.m. to be considered. Proposals submitted by fax or by electronic mail will not be considered. All proposals must be submitted to:

Deborah Eagan
Town Administrator
Rowley Town Hall
139 Main Street
Rowley, MA 01969

The Town of Rowley may cancel this RFP or reject in whole or in part any and all proposals, if it determines, through its Board of Selectmen, that cancellation or rejection serves the best interest of the Town of Rowley.

2. Submission Deadline and Instructions

Qualified entities are requested to submit proposals marked “Wireless Communications Facility” with the entity’s name and address on the front. Applicants should provide one (1) unbound signed original proposal and three (3) bound copies. Fax or electronic submissions will not be accepted.

All applicants (each, an “Applicant”) must also execute and include in the sealed submission the Certificate of Vote, Certificate of Non-Collusion, the Certificate of Tax Compliance, the Respondent Entity Disclosure Statement, and the Disclosure of Beneficial Interests in Real Property Transaction. The Town of Rowley, through the Board of Selectmen, is the awarding authority and reserves the right to reject any and all proposals or parts of proposals; to waive any defects, informalities, and minor irregularities; to accept exceptions to these specifications; and to award contracts or to cancel this Request for Proposals if it is in the Town of Rowley’s best interest to do so.

Proposals must be signed as follows: a) if the bidder is an individual, by her/him personally; b) if the bidder is a partnership, in the name of the partnership, followed by the signature of each general

partner; c) if the bidder is a corporation, by the authorized officer, whose signature must be attested to by the Clerk/Secretary of the corporation and the corporate seal affixed; and d) if the bidder is a limited liability company, by a manager duly authorized.

All sealed proposals must be received and registered by the Town Administrator's office by Friday, September 18, 2020 at 10:00 a.m. All proposals must be in sealed envelopes clearly labeled "Wireless Communications Facility" and mailed or hand delivered to the following address:

Deborah Eagan
Town Administrator
Rowley Town Hall
139 Main Street
Rowley, MA 01845

No proposals will be accepted after the time and date noted. Late delivery of materials, even if the fault of the delivery system, shall be cause for rejection. If on the date and time of the submittal deadline the Rowley Town Hall is closed due to an uncontrolled event such as fire, snow, ice, wind or building evacuation, the submittal deadline will be postponed until 2:00 p.m. on the next normal business day on which the Town Hall is open for business.

3. Questions or Addendum

Questions concerning this RFP must be submitted in writing and emailed to Town Administrator Deborah Eagan at: procurement@townofrowley.org. All questions/inquiries must be received by 4:00 p.m. on Thursday, September 10, 2020 to be considered. Written responses will be posted on the Procurement Page on the Town's website (www.townofrowley.net) " by 2:00 p.m. on Wednesday, September 16, 2020.

If any changes are made to this RFP, an addendum will be emailed to all bidders on file and posted on the Procurement Page on the Town's website under Cell Tower RFP. It is the sole responsibility of Bidders to ascertain the existence of any addenda and/or modifications issued by the Town. As this RFP has been published on the Town's website (www.townofrowley.net) all Applicants are responsible for checking the website for any addenda and /or modifications that are subsequently made to this RFP.

The Town accepts no liability for and will provide no accommodations to Applicants who fail to check for amendments and/or modifications to this RFP and subsequently submit inadequate or incorrect responses. Applicants may not alter (manually or electronically) the RFP language or any RFP component files. Modifications to the body of the RFP, Project Scope, terms and conditions, or modifications which change the intent of this RFP are prohibited and may disqualify a response.

All proposals submitted in response to this RFP shall remain firm for sixty (60) days following the submittal deadline. It is anticipated that the lease will be awarded within sixty (60) days after the submittal deadline.

Applicants are not to communicate directly with any employee of the Town of Rowley, except as specified in this RFP, and no other individual employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFP.

Applicants may contact the Contact Person for this RFP in the event this RFP is incomplete or the Applicant is having trouble obtaining any part of the RFP electronically through the Town website (www.townofrowley.org), including, and without limitation, the form and attachments.

Applicants with disabilities or hardships who seek reasonable accommodations, which may include the receipt of RFP information and/or addenda and/or modifications in an alternative format, must communicate such requests in writing to the Contact Person, and reasonable accommodation will be made by agreement with the Contact Person on behalf of the Town of Rowley. The Contact Person for this RFP shall be Town Administrator Deborah Eagan, whose address is set forth above.

4. Modifications to Proposal

An Applicant may correct, modify, or withdraw a proposal by written notice received by the Town prior to the time and date set for the proposal submission. Proposal modifications must be submitted in a sealed envelope clearly labeled "Modification No. ____." Each modification must be numbered in sequence, and must reference the original RFP.

5. Property Description

The site is a portion of a parcel of town-owned property located on Smith Lane, which parcel is identified as Parcel 14 on Assessors' Map 13. This parcel was formerly listed on the Assessors' records as Parcel 2-2 on Assessors' Map 13. The Assessors have changed it to be Parcel 14 on Assessors Map 13.

Smith Lane is a Town-owned dirt road which is accessed through the parking area of Eiras Park, which is located at 465 Haverhill Street/Route 133. The abutting parcels to Parcel 14 are owned by the Town except for one parcel, which is privately owned. The Town currently leases a portion of Parcel 14 to SBA 2012 TC Assets, LLC, a Delaware limited liability company, for a cell tower. The portions of Town-owned land currently so occupied include an area of approximately 60' by 60' containing the tower and a parking area of about 800 square feet. It is anticipated that if the successful proposer simply continues the operation and maintenance of the existing cell tower, then no change in the leased premises will be made. If the successful proposer elects to construct a new tower, the portion of the said parcel which will be made available for use by the Town will be a subject of negotiation between such proposer and the Board of Selectmen.

6. Background

The May 6, 2019 Special Town Meeting voted to authorize the Board of Selectmen to enter into a lease of Parcel 14 on Assessors' Map 13 "for purposes of a constructing, reconstructing and maintaining a telecommunications facility thereon. . ."

On October 28, 2005, the Town executed a fifteen-year lease with Sprint Spectrum LP, a Delaware limited liability company, for a 3,600 square feet area for the placement of a telecommunications facility and areas to provide access to the parcel and a small parking area approximately 800 square feet. The lease is recorded with the Essex South District Registry of Deeds at Book 29239, Page 544. It was later assigned to, and is currently held by, SBA 2012 TC Assets, LLC, a Delaware limited liability company.

The lease is due to expire as of October 28, 2020.

The current lease includes the following language regarding the current tower at the location:

19. LESSEE'S Covenants: (d) at the end of the lease period, the Lessee shall remove all personal property and equipment installed at the site, and shall, at the request of the Lessor, remove any building or other structures, include the Facility itself, erected by it at the site, including the utility connections, and shall restore the site to its pre-existing condition (reasonable wear and tear excepted). If the Lessor does not require removal of the building or other structures, including the Facility itself and utility connections installed by the Lessee, the Lessor may require the Lessee to transfer such buildings, structures and connections to the Lessor.

7. Site Visit

Applicants may visit the outside are of the site. Parties should park at the entrance to Smith Lane in Eiras Park and walk the short distance down Smith Lane to the site.

8. Project Scope and Limitations

Notwithstanding the requirements of any and all federal, state, and local laws and regulations the following shall apply to the proposals, lease limitations, and use of the site. The following items shall not be construed as limiting any and all other agencies of the Town from imposing additional restrictions or conditions which they may be authorized to impose. Nothing herein shall be construed as a guarantee of the permits or approvals necessary. The Applicant is not provided with any guarantee of permits or approvals. Further, the Applicant understands that each permitting jurisdiction within Town government and at other levels of state and federal government are individual jurisdictions and are not subject to the terms, conditions, limitations, or requirements of this RFP, or any subsequent agreement.

- A. An Applicant may propose to keep in place the existing cell tower facility. Alternatively, an Applicant may propose to construct a new wireless communications facility consisting of one (1) freestanding, self-supporting, non-lighted telecommunications facility including antennae and antenna arrays, and buildings to house equipment and utility connections necessary for operation of the facility. None of the antennae and associated equipment placed on the tower structure will be lighted. A security fence, measuring eight (8) feet in height, consisting of chain link construction or similar but comparable construction, shall

be placed around the perimeter of the premises, not including the connecting rights-of-way, which must be gated.

- B. The existing wireless communications facility is, and any new such facility shall be, designed to accommodate four (4) personal communications service or cellular services providers. The Applicant shall sublease space on its wireless communication facility on commercially reasonable terms. The Applicant will pay the Town as additional monthly rent 20% of all rental payments received by the Applicant from third parties for co-location of telecommunications facilities. The Applicant shall advise any and all future prospective Tenants intending to install wireless communications equipment on the Applicant's Facility of its lease agreement with the Town.
- C. The Applicant shall provide, without charge to the Town, space on the wireless communications facility for use by the Rowley Police Department, Fire Department, Water Department and other Town departments if those departments so wish to use the facility.
- D. The successful Applicant shall be responsible for the construction and installation of all equipment necessary to operate the facility, including necessary utility and telecommunications connections. Such facilities shall either be removed by the Applicant at its own expense or become the property of the Town at the termination of the Lease, at the option of the Town.
- E. The successful Applicant shall be responsible for the maintenance of the facility.
- F. The Town makes no representations or warranties of any kind with respect to the site, its adequacy to support the equipment, or its appropriateness for the intended use. Applicants will be permitted to inspect any plans and other records relating to the property in the possession of the Town, and will have access to the site to make inspections, perform engineering surveys and tests at its own expense and with the prior approval of the Town, and otherwise to assure itself that the site will be suitable for the proposed use. Each Applicant will be responsible for determining the suitability of the site for its intended purposes, and agrees to indemnify the Town for any damage to the property of the Town or to any person arising out of its inspection or testing of the site.
- G. The successful Applicant shall maintain insurance satisfactory to the Town covering the facility and shall indemnify the Town for any damages arising from inspection or testing of the site and construction or use of the facility by the successful proposer.
- H. The Town shall have a right of access to the property at all times, to inspect the facility, to take necessary actions to protect the property or persons in the Town, to enforce the terms of the Lease Agreement, or for any other purpose. Except in cases of emergency, the Town will give at least twenty-four hours' notice of any request for access to the facility.
- I. At the end of the Lease period, the successful Applicant shall remove all its personal property and equipment installed at the site, and shall, at the request of the Town, remove any structure or building erected by it at the site, including any utility connections, and

shall restore the site to its pre-existing condition. If the Town does not require removal of any structures or buildings installed by or through the successful applicant, it may require the successful Applicant to transfer such building, structures and connections to the Town, or its designee.

- J. The successful Applicant shall obtain all necessary permits, licenses, and approvals from any federal agency, the Commonwealth of Massachusetts, and the Town, necessary for the location and operation of its facility at the property and shall furnish the Town with copies of such permits before commencing construction or installation of equipment at the site. The lessee shall comply with all statutes, regulations and bylaws relating to the maintenance and operation of the facility.
- K. If the successful Applicant fails to apply for all permits necessary to construct, install or use its facilities within six (6) months after execution of the Lease, and to proceed to construct, install or use such facilities within three (3) months after obtaining such permits, the Lease shall terminate and the Town shall be free to lease or otherwise dispose of the site as it may determine. The Town shall have the right to proceed to another qualified and responsible proposer in the event that the selected proposer fails to perform.
- L. The successful Applicant shall not be permitted to begin construction or installation of equipment before executing a lease (the "Lease") in a form satisfactory to the Town as shown on Appendix B and before obtaining all necessary permits.
- M. The successful Applicant shall, at its own expense, obtain and keep in force during the term of the Lease and during any extensions thereof, a policy of comprehensive public liability and property damage insurance, insuring the Applicant and the Town as an additional named insured, against any claim of liability arising out of Applicant's construction of the Facility, and use or occupancy of the premises. Such insurance shall further provide coverage of not less than \$1,000,000 per occurrence and \$3,000,000 aggregate coverage. Coverage shall be subject to review and reasonable increase at the request of the Town every three (3) years. Certificates of such insurance shall be delivered to the Town at or prior to the commencement of a lease agreement. In addition, the successful Applicant shall provide evident of Workers' Compensation insurance coverage for its employees as required by Massachusetts General Law.
- N. The successful Applicant shall indemnify and hold harmless the Town, and each and all of its employees and its elected and appointed officials, from and against any and all claims arising from such Applicant's submission of a proposal, its execution of a Lease, its performance or breach of its obligations under such Lease, and its use of the real property subject to the Lease. Such indemnification shall include any and all costs for the defense of such claim including reasonable attorney fees.
- O. The successful Applicant shall agree that the installation of its equipment and its use will not cause measurable interference, as defined by the Federal Communications Commission to the Town's communications system.

- P. The successful Applicant shall enter into a Lease with the Town in a form satisfactory to the Town, which is attached (Appendix B) to this RFP. The Town may in its sole discretion agree to changes or additions to the Lease.
- Q. The initial term of the Lease shall be for ten (10) years, commencing on the date of execution of the Lease, with two successive options for renewal of ten (10) years.
- R. Rent shall be payable monthly in equal installments.
- S. The successful Applicant shall enter into a Lease with the Town in form satisfactory to the Town. The Town anticipates that such a Lease shall be substantially in the form attached hereto as Appendix B, but reserves the right to make revisions in its sole discretion.
- T. The successful Applicant shall provide information that would document that all companies and or lead staff positions, associated with the filing of permits, administration, management, design, erection, and maintenance of the facilities described herein have at least five years' experience in the applicable profession or trade, and they are not involved in any action related to mismanagement, poor design, poor construction or other indication that the companies and/or persons are not qualified. All persons and or companies involved in performing the work must have their applicable licenses, certifications or required training for their applicable trade or profession prior to the filing of this proposal.
- U. The successful Applicant shall provide a detailed construction schedule with the signed lease. The Applicant should consider that the Town shall require that rental payments will begin within six months of the signing of the lease regardless of the operational status of Applicant's facilities.

9. Minimum Criteria/Qualifications

The Applicant's package must consist of a detailed proposal and a price proposal. Each Applicant must, at a minimum, submit the information and meet the standards indicated below. Failure to meet minimum submittal requirements will be sufficient cause to reject a proposal. Applicants are solely responsible for reviewing all the provisions of this RFP and any attachments, prior to submitting a proposal. Proposals that are incomplete, not properly endorsed, or are otherwise in conflict with the requirements of this RFP may be rejected.

- A. In a sealed package, submit one (1) unbound original and three (3) bound copies of the proposal, complete with all back-up materials for each proposal package.
- B. Proposals must be submitted in an 8½" x 11" format for text, and to the extent practical, for graphics. Oversized pages or graphics should be folded to 8½" x 11".
- C. A cover letter must include a statement of interest, identify the primary respondent entity, and the name, address and contact information of the signatory authorized to file the proposal and to execute a lease on behalf of the Applicant.

- D. A detailed proposal must provide a description of the wireless communications facility proposed including addressing any and all relevant provisions to the Town of Rowley's Zoning Bylaw.
- E. Applicants shall provide a development time line including permitting, design, construction phasing, and completion of the wireless communication facility.
- F. Applicant shall have a minimum of ten (10) years' experience in the installation of wireless communication facilities.
- G. If the Applicant proposes to install a new facility, the Applicant shall submit a complete list of all wireless communications facility installations performed in the past three (3) years with dates, contact names and telephone numbers.
- H. The Lease will provide for rent escalation at the rate of not less than 3% per year. The minimum price proposal shall be equivalent to \$30,000 for the first year of the rental term.
- I. A copy of financial statements for the Applicant's most recent fiscal year.
- J. Submission of separate and sealed proposals.
- K. Submission of required statements and forms.

10. Comparative Evaluation Criteria

All proposals meeting the minimum criteria/qualifications will then be evaluated based upon the specific comparative evaluation criteria. The following point schedule will be utilized:

<i>Highly advantageous</i>	5 points	Response excels on the specific criterion
<i>Advantageous</i>	3 points	Response meets evaluation standard for the criterion
<i>Least Advantageous</i>	1 point	Response does not fully meet the criterion or leaves a question or issue not fully addressed
<i>Does Not Meet</i>	0 points *	Does not address the criterion

* Proposal is automatically eliminated from further consideration if "0 points" is received in any category.

- A. Applicant's experience in the installation of a wireless communications facility
 - o Applicant has fifteen years or more experience in the installation of a wireless communications facility will be considered Highly Advantageous (5 points)

- Applicant has less than fifteen years, but twelve or more years' experience in the installation of a wireless communications facility will be considered Advantageous (3 points)
 - Applicant has less than twelve years, but ten or more years' experience in the installation of a wireless communications facility will be considered Least Advantageous (1 point)
 - Applicant has less than ten years' experience in the installation of a wireless communications facility will be considered as Does Not Meet minimum requirements (0 points and elimination from further consideration)
- B. Applicant's experience with successful installation of wireless communications facility on municipal owned property in Massachusetts
- Applicant having ten or more successful installations on municipal owned property in Massachusetts, including one installation in the Town of Rowley will be considered Highly Advantageous (5 points)
 - Applicant having at least five, but less than ten successful installations on municipal owned property in Massachusetts will be considered Advantageous (3 points)
 - Applicant having at least one, but less than five successful installations on municipal owned property in Massachusetts will be considered Least Advantageous (1 point)
 - Applicant having no successful installations on municipal owned property in Massachusetts will be considered as Does Not Meet minimum requirements (0 points and elimination from further consideration)
- C. Applicant provided a detailed proposal responding to and addressing all items contained within this RFP.
- Providing a detailed proposal responding to and addressing all items contained within this RFP will be considered Highly Advantageous (5 points)
 - Providing a detailed proposal responding to and addressing most but not all items contained within this RFP will be considered Advantageous (3 points)
 - Providing a proposal responding to and addressing some items contained within this RFP will be considered Least Advantageous (1 point)
 - Providing a proposal that does not respond to and address any items contained within this RFP will be considered as Does Not Meet minimum requirements (0 points and elimination from further consideration)

11. Other Considerations

- A. References may be checked for all parties identified in the submitted proposal as participating in the project.
- B. The Town may amend or revise the RFP as a result of questions submitted by Applicants or for any other reason that causes the Town to believe it would be in the best interests of the Town to do so. If any changes are made to this RFP, an addendum will be posted on the Town's website on the Procurement Page. It is the sole responsibility of the Applicant to ascertain the existence of any addenda and/or modifications issued by the Town. As this RFP has been published on the Town's website all Applicants are responsible for checking the website for any addenda and /or modifications that are subsequently made to this RFP.
- C. The Town will not be liable for any costs incurred by any Applicant in the preparation and presentation of responses to this RFP or in the participation in views, interviews, negotiations or any other aspect of this RFP process.
- D. This RFP and the responses, including all warranties, commitments and representations made in the successful response shall be binding and shall become contractual obligations to be incorporated by reference in the Town's contract with the Applicant, unless the Town in its sole discretion waives any such warranty, commitment or representation.
- E. Proposals may not be withdrawn, amended or modified for a period of one hundred eighty (180) days from the deadline for submission of proposals.

12. Method for Award

The Lease will be awarded to the responsible and responsive Applicant submitting the most advantageous proposal taking into consideration all evaluation criteria and price.

CERTIFICATIONS

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals.

Signature _____

Date _____

Print Name & Title

Entity Name

CERTIFICATE OF TAX COMPLIANCE

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A (b), I

_____, authorized signatory for _____,

Name of individual

Name of applicant

do hereby certify under penalties of perjury that said applicant has complied with all laws of the Commonwealth of Massachusetts, and the Town of Rowley, relating to taxes, permit or other fees, reporting of employees and contractors, and withholding and remitting child support.

Signature

Date

CERTIFICATE OF VOTE

At a duly authorized meeting the Board of Directors of the _____
held on _____ it was

VOTED, THAT

(Name) _____ (Officer)
of _____ be and hereby is authorized to execute contracts and bonds in the
name and on behalf of said _____, and affix its corporate seal hereto; and
such execution of any contract or obligation in the name of _____ on its
behalf by such officer under seal of _____, shall be valid and binding upon
_____.

I hereby certify that I am the clerk of the above named _____ and
that _____ is the duly elected officer as above of said
_____, and that the above vote has not been amended or rescinded and
remains in full force and effect as the date of this contract.

(Date)

(Clerk)

APPLICANT ENTITY DISCLOSURE STATEMENT

Give full names and residences of all persons and parties interested in the foregoing proposal:

(Notice: Give first and last name in full; in case of a corporation give names of President and Treasurer; in case of a limited liability company give names of the individual members, and, if applicable, the names of all managers; in case of a partnership or a limited partnership, all partners, general and limited and, in case of a trust, all trustees)

NAMES	ADDRESSES	ZIP CODE
_____	_____	_____
_____	_____	_____
_____	_____	_____

Kindly furnish the following information regarding the Respondent:

(1) If a Sole Proprietorship,
Name of Owner: _____

	ADDRESS	ZIP CODE	TEL #
Business:	_____	_____	_____
Home:	_____	_____	_____

(2) If a Partnership, full names and address of all partners:

NAMES	ADDRESSES	ZIP CODE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

BUSINESS ADDRESS	ZIP CODE	TEL #
_____	_____	_____

(3) If a Corporation

Full Legal Name: _____

State of Incorporation: _____

Principal Place of Business:	ZIP CODE	TEL #
_____	_____	_____

Qualified in Massachusetts:	Yes _____	No _____
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Place of Business in Massachusetts:	ZIP CODE	TEL #
_____	_____	_____

Admitted in Massachusetts:	Yes _____	No _____
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Place of Business in Massachusetts:	ZIP CODE	TEL #
_____	_____	_____

(4) If a Limited Liability Company

Full Legal Name: _____

State of Formation: _____

Principal Place of Business:	ZIP CODE	TEL #
_____	_____	_____

Qualified in Massachusetts:	Yes _____	No _____
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Place of Business in Massachusetts:	ZIP CODE	TEL #
_____	_____	_____

Admitted in Massachusetts:	Yes _____	No _____
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Place of Business in Massachusetts:	ZIP CODE	TEL. #
_____	_____	_____

(5) If a Trust

Full Legal Name: _____

Recording Information: _____

State of Formation: _____

Full names and address of all trustees:

NAMES	ADDRESSES	ZIP CODE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Authorized Signature of Respondent: _____

Title: _____

Date: _____

**DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)**

This form contains a disclosure of the names and addresses of all persons with a direct or indirect beneficial interest in the real estate transaction described below. This form must be completed and filed with the Deputy Commissioner for Real Estate, Massachusetts Division of Capital Asset Management and Maintenance, as required by General Laws c7C, §38, prior to the conveyance of or execution of a purchase/lease for the real property described below. Attach additional sheets if necessary. The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

(1) REAL PROPERTY:

(2) TYPE OF TRANSACTION, AGREEMENT, or DOCUMENT:

(3) PUBLIC AGENCY PARTICIPATING in TRANSACTION:

(4) DISCLOSING PARTY'S NAME AND TYPE OF ENTITY:

(5) ROLE OF DISCLOSING PARTY (Check appropriate role):

_____ Lessor/Landlord

_____ Lessee/Tenant

_____ Seller/Grantor

_____ Buyer/Grantee

_____ Other (Please describe): _____

(6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7C, s. 38, are hereby disclosed as follows (attach additional pages if necessary):

NAME

RESIDENCE

(7) None of the above- named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (Check "NONE" if NONE):

☐

NONE

NAME:

POSITION:

- _____

- (8) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

- (9) This Disclosure Statement is hereby signed under penalties of perjury.

PRINT NAME OF DISCLOSING PARTY (from Section 4, above)

AUTHORIZED SIGNATURE of DISCLOSING PARTY DATE (MM / DD / YYYY)

PRINT NAME & TITLE of AUTHORIZED SIGNER

APPENDIX A: PRICE PROPOSAL FORM

NOTE: The lease will provide for lease payment escalation at the rate of not less than 3% per year. The minimum price proposal for Year One shall be equivalent to \$30,000.

Total annual net lease value for property for ten-year term of lease

Year One (1)

Number: \$ _____

Words: _____

Year Two (2)

Number: \$ _____

Words: _____

Year Three (3)

Number: \$ _____

Words: _____

Year Four (4)

Number: \$ _____

Words: _____

Year Five (5)

Number: \$ _____

Words: _____

Year Six (6)

Number: \$ _____

Words: _____

Year Seven (7)

Number: \$ _____

Words: _____

Year Eight (8)

Number: \$ _____

Words: _____

Year Nine (9)

Number: \$ _____

Words: _____

Year Ten (10)

Number: \$ _____

Words: _____

TOTAL FOR TEN YEARS

Number: \$ _____

Words: _____

Note: Both the number form and the written form should indicate the same total amount. If there is a conflict between the number form and the written form amounts, the written form will control.

Addenda _____ are acknowledged: _____
Signature

Applicant's Name _____

Applicant's Address _____

Applicant's Phone _____ Fax _____

Email Address _____

Name of Person Authorized to sign Price Proposal

Title of Person Authorized to sign Price Proposal

Signature of Above Person

c:\Rowley\RFP - Cell Tower Lease

APPENDIX B: LEASE AGREEMENT

This Agreement made this ____ day of 2020, is between the Town of Rowley (hereinafter referred to as LESSOR), whose address is Town Hall, 139 Main Street, P.O. Box 275, Rowley, MA 01969 and _____, a _____, having a usual place of business at _____ (hereinafter referred to as LESSEE).

In consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. Premises: The LESSOR hereby leases to LESSEE a portion of a certain parcel of real property located off Haverhill Street (Rt. 133), Rowley, Essex County, Massachusetts, said portion containing a 60 X 60 area (3,600 square feet) for placement of the telecommunications facility and areas to provide access to the parcel and a small parking area (800 square feet) (hereinafter called the Premises). The exact location of the Premises on the parcel will be determined after LESSEE has identified the feasible locations thereon and will be subject to final approval by the LESSOR acting by and through its Board of Selectmen. Said Premises are located on real property owned by the LESSOR being described as Rowley Assessors Map No. 13, Parcel 14, in said Rowley. LESSEE shall have access to the Premises twenty-four (24) hours per day, seven (7) days per week; provided that LESSEE shall comply with LESSOR'S reasonable security and access procedures and further provided that LESSEE will give LESSOR at least five (5) days' notice in writing prior to commencement of any construction work or installation of LESSEE'S communications equipment.

2. Term: This Agreement shall be for a term of ten (10) years beginning on October 28, 2020 at an annual rental of _____ dollars (\$_____) to be paid in equal monthly installments. This annual fee shall increase at a rate of ____% annually (not to be less than 3%). In addition, LESSEE will pay to the LESSOR 20% of any sub-lease payments from third parties for co-locations within thirty (30) days following LESSEE'S receipt of said rental payments.

Rental payments will be made in equal monthly installments, in advance, on the first day of the month, and will be prorated for any partial month. In addition, the LESSEE will pay the LESSOR as additional monthly rent 20% of all rental payments received by the LESSEE from third parties for co-location of telecommunication facilities on the Facility within thirty (30) days following LESSEE's receipt of said rental payments.

Provided LESSEE is not then in default beyond the expiration of any applicable cure period, the Lease Term shall automatically renew for two (2) additional ten-(10-) year periods (extended lease period), unless LESSEE notifies LESSOR in writing of its intention not to renew at least ninety (90) days prior to the expiration of the Lease Term. The extended lease period will be governed by the terms of this Agreement.

3. Use: The Premises shall be used for the primary purpose of constructing, maintaining and operating a communications facility consisting of one free-standing, self-supporting, non-lighted tower structure including antennae and antenna arrays, as well as equipment buildings and all necessary appurtenances, radio/electronic/electrical equipment, connecting cables, coaxial cables, Global Positioning System antennae, wires and associated appurtenances. None of the antennae and associated equipment placed on the tower structure will be lighted. A security fence, measuring eight (8) feet in height, consisting of chain link construction, or similar but comparable construction, shall be placed around the perimeter of the Premises, not including the connecting rights-of-way, which must be gated. All improvements made by LESSEE on the Premises shall be at LESSEE'S expenses and LESSEE will maintain the Premises in a reasonable condition.

4. Co-Location: (a) The LESSOR agrees that the Facility will be designed to accommodate four (4) personal communications service or cellular service providers and that LESSEE shall, subject to LESSEE'S receipt of all necessary governmental permits and approvals for the facility, sublease space on its communications Facility on commercially reasonable terms to up to four (4) users whose primary business is communications service or public safety, provided that LESSOR provides prior written approval of such subleases to LESSEE. LESSOR shall have the right to review all records of the LESSEE with respect to payments received for said subleases. Said subleases shall provide for an annual adjustment to the rental payments based upon any change in the Consumer Price Index published by the United States Department of Labor or a fixed percentage increase. (b) The LESSEE shall provide, without charge to the LESSOR, space on the Facility to accommodate communication antennas and associated

equipment for use by the police, fire, and other departments of the LESSOR if those Departments so wish to use such Facility.

5. Non-Interference: LESSEE shall install, or have installed, communications equipment of the type and frequency which will not cause measurable interference, as defined by the FCC, to the currently licensed and operating communications equipment of LESSOR. In the event LESSEE'S equipment causes such measurable interference, LESSEE will within thirty (30) days of the onset of said interference, take all reasonable steps necessary to correct and eliminate the interference. If such interference cannot be eliminated, LESSEE will cease operation of the equipment until a remedy can be made, provided, however, that LESSEE may conduct intermittent testing of its equipment. Likewise, LESSOR will not install or permit the installation of any future equipment that is likely to interfere with the facility.

6. Permits: It is understood and agreed that LESSEE'S ability to use the Premises as contemplated by this Agreement is contingent upon its obtaining before the commencement date of this Agreement all of the certificates, permits and other approvals required by any federal, state and local authorities. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals. In the event that any such certificates and permits should be rejected, or any certificate, permit, license or approval issued to LESSEE is concluded, expires, lapses or is otherwise withdrawn or terminated by government authority so that LESSEE will be unable to use the Premises for its intended purposes, LESSEE shall have the right to terminate this Agreement by written notice. Notice of LESSEE'S exercise of its right to terminate shall be given to LESSOR by certified mail, return receipt requested, and shall be effective thirty (30) days thereafter. All rentals paid up to said termination shall be kept by LESSOR and this Agreement shall become null and void and the parties shall have no further obligations to each other except that the LESSEE expressly agrees that, in the event of such termination, it will dismantle and remove from the Premises the tower, communications equipment and building (unless LESSOR states, in writing, that it desires to keep the tower and building) and restore the property to its pre-construction condition and return all of LESSOR'S antennas and equipment to LESSOR. The dismantling and removal of the equipment, the return of the equipment and the restoration of the property will all be at the LESSEE'S expense. In the event that the LESSEE fails to perform completely the terms of this paragraph, within sixty (60) days following termination or expiration of the Agreement, LESSOR may, at its option, perform LESSEE'S obligation at LESSEE'S expense, and LESSEE agrees that the tower, communications equipment, building and all associated equipment and fixtures shall become the sole property of the LESSOR.

7. Indemnification: LESSEE agrees to indemnify and save LESSOR harmless against and from any and all claims, damages, costs and expenses to any person or property on the Premises or arising out of LESSEE'S use and occupancy of the Premises. If any claim or proceeding is brought, naming the LESSOR as a party by reason of any such claim or proceeding, LESSEE, at its own cost and expense, upon written notice from LESSOR, agrees to undertake forthwith to defend such action or proceeding and hold the LESSOR harmless and indemnify the LESSOR against any liability thereon which may be asserted or imposed.

8. Insurance: LESSEE shall, at LESSEE'S expense, obtain and keep in force during the term of this Agreement, and during any extensions thereof, a policy of comprehensive public liability and property damage insurance insuring LESSEE, and LESSOR as an additional named insured, against any claim of liability arising out of LESSEE'S construction and use of the Facility, and use or occupancy of the Premises. Such insurance shall further provide coverage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate coverage. Coverage will be subject to review and reasonable increase at the request of the LESSOR every three (3) years.

Certificates of such insurance shall be delivered to LESSOR at or prior to the commencement date, and certificates of renewals or replacements thereafter shall be furnished to LESSOR prior to the expiration date of each such insurance policy. All such policies of insurance shall contain an endorsement that they may not for any reason be canceled or terminated for failure or refusal to renew by the insurance company or by LESSEE, except only if the insurance companies issuing such policies shall notify the LESSOR in writing by certified or registered mail no less than ten (10) days prior to the effective date of such proposed cancellation, termination or failure or refusal to renew.

In the event that any such policy is proposed to be terminated, not renewed or otherwise canceled for any reason whatsoever, be it by the insurance company or the LESSEE, the LESSEE shall also immediately and prior to the effective date of such termination, cancellation or non-renewal provide equivalent substitute policies in like qualified companies and in like amounts to the LESSOR. Upon failure to so provide such substitute policies the LESSOR may secure equivalent insurance coverage and the LESSEE shall, upon demand, pay the total premium charges thereon either directly to the insurance companies or by reimbursing the LESSOR for the premiums if paid by the LESSOR.

In addition, the LESSEE shall provide evidence of workers'

compensation coverage for its employees as required by Massachusetts General Laws.

9. Sale of Premises: Should LESSOR, at any time during the term of the Agreement, sell or convey all or any part of the Premises to a purchaser other than LESSEE, such sale or conveyance shall be under and subject to this Lease Agreement and LESSEE'S rights hereunder.

10. Quiet Enjoyment: LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

11. Title: LESSOR covenants that LESSOR is seized of good and sufficient fee title and interest to the Premises and has full authority to enter into and execute this Agreement. LESSOR further covenants that there are no liens, judgments or impediments of title on the Premises other than those of record.

12. Default: This Lease is made on condition that if LESSEE should neglect or fail to pay the rent due hereunder within fifteen (15) days after receipt by LESSEE of notice from LESSOR of such nonpayment, or if the LESSEE shall neglect or fail to perform or observe any of the other terms, provisions, conditions and covenants herein contained and on the LESSEE'S part to be performed or observed for a period of thirty (30) days after receipt by the LESSEE of notice of such neglect or failure or if the leasehold hereby created shall be taken on execution, or by other process of law, and such execution or other process is not satisfied or discharged within thirty (30) days thereafter or prior to a sale under said execution or other process whichever first occurs, or if any assignment shall be made of the LESSEE'S property for the benefit of creditors, or if a receiver, trustee in bankruptcy or similar officer shall be appointed to take charge of all or any part of the LESSEE'S property by a Court of competent jurisdiction, or if a petition is filed by the LESSEE under any bankruptcy law for relief or composition of its debts, which petition is not discharged within ninety (90) days thereafter, or if the LESSEE is declared bankrupt then, and in any of said cases, the LESSOR lawfully may immediately or at any time thereafter and without demand or notice enter upon the Premises or any part thereof in the name of the whole and repossess the same, including the telecommunications facility and all trade fixtures therein and/or annexed thereto, as of the LESSOR'S former estate and expel the LESSEE and those claiming through or under the LESSEE and remove its effects, forcibly if necessary (but only if LESSEE fails to fulfill its removal obligations pursuant to Section 6 above), without being deemed guilty of any manner of

trespass and without prejudice to any remedies which might otherwise be used for arrears of rent or proceeding for breach of covenants, and upon such entry, may terminate this Lease; and the LESSEE covenants in case of such termination to pay and be liable for, on the days originally fixed for the payment thereof, amounts equal to the several installments of rent and other charges reserved for the then current term as would under the terms of this Lease become due if this Lease had not been terminated or if LESSOR had not entered or reentered as aforesaid, and the LESSEE covenants to pay and be liable for all losses and damages suffered by reason of such termination, including, but not limited to, the costs of legal counsel retained by the LESSOR and all expenses of the LESSOR for enforcement hereunder. In the event LESSOR fails to perform or observe any significant term, provision, condition and/or covenant herein contained on the LESSOR'S part to be performed or observed for a period of thirty (30) days after receipt by LESSOR of written notice of such neglect or failure, then LESSEE may, in addition to pursuing any other rights or remedies available at law or equity, terminate this Agreement.

13. Complete Agreement: This Agreement contains all the agreements, promises and understandings between LESSOR and LESSEE and no oral agreements, promises or understandings shall be binding upon either LESSOR or LESSEE in any disputes, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing and signed by the parties hereto except that the terms set forth in the LESSOR'S Request for Proposals dated _____ and LESSEE'S Proposal dated _____ are incorporated herein.

14. Controlling Law: This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the Commonwealth of Massachusetts

15. Assignment: The LESSOR'S rights under this Lease may be assigned provided that assignee assumes in writing LESSOR'S obligations under this Agreement; the LESSEE may assign or sublet the Lease to an entity which is licensed by the Federal Communications Commissions to operate the Facility and which is a parent, subsidiary or affiliate of the LESSEE, or to any entity which controls or is controlled by or is under common control with LESSEE or which is merged or consolidated with LESSEE provided that notification is submitted to the LESSOR and LESSEE shall remain primarily liable for its obligations under this Agreement. The LESSEE shall not otherwise assign or sublet the Lease without the LESSOR'S written consent, acting by and through its Board of Selectmen; said consent to be entirely at the discretion of the

Board of Selectmen.

Notices: All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, addressed as follows, and shall be deemed received as of the earlier of five (5) days after the date of the postmark or actual receipt hereof.

LESSOR: Rowley Board of Selectmen
139 Main Street
P.O. Box 275
Rowley, MA 01969

With a copy to:

Thomas A. Mullen, Esq.
40 Salem Street, Suite 12
Lynnfield, MA 01940

LESSEE:

With a copy to:

16. Binding Agreement: This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of the parties hereto.

17. LESSOR'S Right of Entry: LESSOR'S agents and other representatives, and its invitees, shall have the right, without abatement of rent, to enter into and upon the Premises, or any part thereof, for the purpose of examining or inspecting the same, to make such repairs to the Premises as may be necessary for the safety and preservation thereof, to protect the property or persons in the Town, to enforce the terms of the Lease Agreement or for any other purpose. Except in cases of emergency the LESSOR will give the LESSEE twenty-four (24) hours' prior telephone notice of such entry, and will notify LESSEE of any emergency access as soon as reasonably practical.

18. LESSEE'S Covenants: The LESSEE covenants for the original term of the Lease and, if the Lease is extended, for the extended term hereof as follows:

(a) to pay when due the rent at the time and in the manner required as provided in this Lease;

(b) to, at the expiration of this Lease, yield up peaceably to LESSOR the Premises in good order, repair and condition, (reasonable wear and tear excepted);

(c) to indemnify the LESSOR against any mechanics' or other liens arising out of the making of any alterations, repairs, additions or improvements by the LESSEE. All such work by LESSEE shall be done in accordance with all requirements of law, including all governmental regulations, in a good workmanlike manner, and with materials of good quality;

(d) at the end of the lease term, the LESSEE shall remove all personal property and equipment installed at the site, and shall, at the request of the LESSOR, remove any building or other structures, including the Facility itself, erected by it or by a predecessor lessee at the site, including any utility connections, and shall restore the site to its pre-construction condition (reasonable wear and tear excepted), unless requested otherwise by LESSOR. If the LESSOR does not require removal of the building or other structures, including the Facility itself and utility connections installed by the LESSEE, the LESSOR may require the LESSEE to transfer such buildings, structures and connections to the LESSOR;

(e) to apply for all permits necessary to construct or install its facilities within three (3) months after execution of this Lease, and to proceed to construct or install such facilities within three (3) months after obtaining such permits; failure will result in termination of the Lease and the LESSOR shall be free to lease or otherwise dispose of the site as it may determine; and

(f) to obtain all permits, licenses and approvals necessary for location and operation of the Facility and furnish the LESSOR with copies of such permits before commencing with construction or installation of equipment at the site.

In witness whereof, the parties have set their hands and seals as of the date first set forth above.

TOWN OF ROWLEY

By: _____
Chairman, Board of Selectmen

LESSEE: