

REQUEST FOR PROPOSAL

RFP # 22-04

Architect/Engineering for the Ann Arbor Ypsilanti Broadband Conduit Project

City of Ann Arbor
City Administration/Information Technology Department



Due Date: January 27, 2022 by 2:00 p.m. (local time)

Issued By:

City of Ann Arbor
Procurement Unit
301 E. Huron Street
Ann Arbor, MI 48104

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SECTION I - GENERAL INFORMATION

A. OBJECTIVE

Ann Arbor Spark, the City of Ann Arbor, and the City of Ypsilanti has been awarded a U.S. Department of Commerce's Economic Development Administration (EDA) investment from the Economic Adjustment Assistance – FY 2020 CARES Act Supplemental Notice of Funding Opportunity to architect/engineer and construct approximately 20-miles of new underground fiber and conduit to-and-from the City of Ann Arbor and the City of Ypsilanti. A preliminary engineering report (Attachment A) has been completed and we are seeking qualified contractors to provide Outside Plant (OSP) Network Design, Fiber and Conduit Route Planning, Construction Oversight, Permitting Services, and develop final architect/engineering design documentation.

B. QUESTIONS AND CLARIFICATIONS / DESIGNATED CITY CONTACTS

All questions regarding this Request for Proposal (RFP) shall be submitted via e-mail. Questions will be accepted and answered in accordance with the terms and conditions of this RFP.

All questions shall be submitted on or before January 6, 2022 at 4:00 p.m., and should be addressed as follows:

Scope of Work/Proposal Content questions shall be e-mailed to Tom Shewchuk, IT Director/City of Ann Arbor - IT-RFPS@a2gov.org

RFP Process and Compliance questions shall be e-mailed to Colin Spencer, Buyer - CSpencer@a2gov.org

Should any prospective offeror be in doubt as to the true meaning of any portion of this RFP, or should the prospective offeror find any ambiguity, inconsistency, or omission therein, the prospective offeror shall make a written request for an official interpretation or correction by the due date for questions above.

All interpretations, corrections, or additions to this RFP will be made only as an official addendum that will be posted to a2gov.org and MITN.info and it shall be the prospective offeror's responsibility to ensure they have received all addenda before submitting a proposal. Any addendum issued by the City shall become part of the RFP, and must be incorporated in the proposal where applicable.

C. PRE-PROPOSAL MEETING

No pre-proposal meeting will be held for this RFP. Please contact staff indicated above with general questions regarding the RFP.

D. PROPOSAL FORMAT

To be considered, each firm must submit a response to this RFP using the format provided in Section III. No other distribution of proposals is to be made by the prospective offeror. An official authorized to bind the offeror to its provisions must sign the proposal in ink. Each proposal must remain valid for at least ninety days from the due date of this RFP.

Proposals should be prepared simply and economically providing a straightforward, concise description of the offeror's ability to meet the requirements of the RFP. No erasures are permitted. Mistakes may be crossed out and corrected and must be initialed in ink by the person signing the proposal.

E. SELECTION CRITERIA

Responses to this RFP will be evaluated using a point system as shown in Section III. A selection committee comprised of staff from the City will complete the evaluation. The EDA must review and approve of the agreement prior to final award.

The fee proposals will not be reviewed at the initial evaluation. After initial evaluation, the City will determine top proposals, and open only those fee proposals. The City will then determine which, if any, firms will be interviewed. During the interviews, the selected firms will be given the opportunity to discuss their proposal, qualifications, past experience, and their fee proposal in more detail. The City further reserves the right to interview the key personnel assigned by the selected offeror to this project. If the City chooses to interview any respondents, the interviews will be tentatively held the **week of February 7, 2022**. Offeror must be available on these dates.

All proposals submitted may be subject to clarifications and further negotiation. All agreements resulting from negotiations that differ from what is represented within the RFP or in the proposal response shall be documented and included as part of the final contract.

F. SEALED PROPOSAL SUBMISSION

All proposals are due and must be delivered to the City on or before, January 27, 2022 at 2:00 p.m. (local time). Proposals submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

Each respondent must submit in a sealed envelope

- **one (1) original proposal**
- **three (3) additional proposal copies**
- **one (1) digital copy of the proposal preferably on a USB/flash drive as one file in PDF format**

Each respondent must submit in a single separate sealed envelope marked Fee Proposal

- **two (2) copies of the fee proposal**

The fee proposal and all costs must be separate from the rest of the proposal.

Proposals submitted must be clearly marked: **“RFP No.22-04 – Architect/Engineering for the Ann Arbor Ypsilanti Broadband Conduit Project”** and list the offeror's name and address.

Proposals must be addressed and delivered to:
City of Ann Arbor
c/o Customer Service
301 East Huron Street
Ann Arbor, MI 48107

All proposals received on or before the due date will be publicly opened and recorded on the due date. No immediate decisions will be rendered.

Hand delivered bids may be dropped off in the Purchasing drop box located in the Ann Street (north) vestibule/entrance of City Hall. The City will not be liable to any prospective offeror for any unforeseen circumstances, delivery, or postal delays. Postmarking on the due date will not substitute for receipt of the proposal. Offerors are responsible for submission of their proposal. Additional time will not be granted to a single prospective offeror. However, additional time may be granted to all prospective offerors at the discretion of the City.

A proposal may be disqualified if the following required forms are not included with the proposal:

- **Attachment C - City of Ann Arbor Non-Discrimination Declaration of Compliance**
- **Attachment D - City of Ann Arbor Living Wage Declaration of Compliance**
- **Attachment E - Vendor Conflict of Interest Disclosure Form of the RFP Document**

Proposals that fail to provide these forms listed above upon proposal opening may be deemed non-responsive and may not be considered for award.

Please provide the forms outlined above (Attachments C, D and E) within your narrative proposal, not within the separately sealed Fee Proposal envelope.

All proposed fees, cost or compensation for the services requested herein should be provided in the separately sealed Fee Proposal envelope only.

G. DISCLOSURES

Under the Freedom of Information Act (Public Act 442), the City is obligated to permit review of its files, if requested by others. All information in a proposal is subject to disclosure under this provision. This act also provides for a complete disclosure of contracts and attachments thereto.

H. TYPE OF CONTRACT

A sample of the Professional Services Agreement is included as Appendix A. Those who wish to submit a proposal to the City are required to review this sample agreement carefully. **The City will not entertain changes to its Professional Services Agreement.**

The City reserves the right to award the total proposal, to reject any or all proposals in whole or in part, and to waive any informality or technical defects if, in the City's sole judgment, the best interests of the City will be so served.

This RFP and the selected offeror's response thereto, shall constitute the basis of the scope of services in the contract by reference.

I. NONDISCRIMINATION

All offerors proposing to do business with the City shall satisfy the contract compliance administrative policy adopted by the City Administrator in accordance with the Section 9:158 of the Ann Arbor City Code. Breach of the obligation not to discriminate as outlined in Attachment C shall be a material breach of the contract. Contractors are required to post a copy of Ann Arbor's Non-Discrimination Ordinance attached at all work locations where its employees provide services under a contract with the City.

J. WAGE REQUIREMENTS

The Attachments provided herein outline the requirements for payment of prevailing wages or of a "living wage" to employees providing service to the City under this contract. The successful offeror must comply with all applicable requirements and provide documentary proof of compliance when requested.

K. CONFLICT OF INTEREST DISCLOSURE

The City of Ann Arbor Purchasing Policy requires that the consultant complete a Conflict of Interest Disclosure form. A contract may not be awarded to the selected offeror unless and until the Procurement Unit and the City Administrator have reviewed the Disclosure form and determined that no conflict exists under applicable federal, state, or local law or administrative regulation. Not every relationship or situation disclosed on the Disclosure Form may be a disqualifying conflict. Depending on applicable law and regulations, some contracts may awarded on the

recommendation of the City Administrator after full disclosure, where such action is allowed by law, if demonstrated competitive pricing exists and/or it is determined the award is in the best interest of the City. A copy of the Conflict of Interest Disclosure Form is attached.

L. COST LIABILITY

The City of Ann Arbor assumes no responsibility or liability for costs incurred by the offeror prior to the execution of a Professional Services Agreement. The liability of the City is limited to the terms and conditions outlined in the Agreement. By submitting a proposal, offeror agrees to bear all costs incurred or related to the preparation, submission, and selection process for the proposal.

M. DEBARMENT

Submission of a proposal in response to this RFP is certification that the Respondent is not currently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal departments or agency. Submission is also agreement that the City will be notified of any changes in this status.

N. PROPOSAL PROTEST

All proposal protests must be in writing and filed with the Purchasing Manager within five (5) business days of the award action. The offeror must clearly state the reasons for the protest. If an offeror contacts a City Service Area/Unit and indicates a desire to protest an award, the Service Area/Unit shall refer the offeror to the Purchasing Manager. The Purchasing Manager will provide the offeror with the appropriate instructions for filing the protest. The protest shall be reviewed by the City Administrator or designee, whose decision shall be final.

Any inquiries or requests regarding this procurement should be only submitted in writing to the Designated City Contacts provided herein. Attempts by the offeror to initiate contact with anyone other than the Designated City Contacts provided herein that the offeror believes can influence the procurement decision, e.g., Elected Officials, City Administrator, Selection Committee Members, Appointed Committee Members, etc., may lead to immediate elimination from further consideration.

O. SCHEDULE

The proposals submitted should define an appropriate schedule in accordance with the requirements of the Proposed Work Plan in Section III.

The following is the schedule for this RFP process.

Activity/Event	Anticipated Date
Written Question Deadline	January 6, 2022, 4:00 p.m.
Addenda Published (if needed)	Week of January 10, 2022
Proposal Due Date	January 27, 2022, 2:00 p.m. (Local Time)
Tentative Interviews (if needed)	Week of February 7 , 2022
Selection/Negotiations	February/March/April 2022
Expected City Council Authorizations	March/April/May 2022

The above schedule is for information purposes only and is subject to change at the City's discretion.

P. IRS FORM W-9

The selected offeror will be required to provide the City of Ann Arbor an IRS form W-9.

Q. RESERVATION OF RIGHTS

1. The City reserves the right in its sole and absolute discretion to accept or reject any or all proposals, or alternative proposals, in whole or in part, with or without cause.
2. The City reserves the right to waive, or not waive, informalities or irregularities in of any proposal if determined by the City to be in its best interest.
3. The City reserves the right to request additional information from any or all offerors.
4. The City reserves the right to reject any proposal that it determines to be unresponsive and deficient in any of the information requested within RFP.
5. The City reserves the right to determine whether the scope of the project will be entirely as described in the RFP, a portion of the scope, or a revised scope be implemented.
6. The City reserves the right to select one or more consultants to perform services.
7. The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted.
8. The City reserves the right to disqualify proposals that fail to respond to any requirements outlined in the RFP, or failure to enclose copies of the required documents outlined within RFP.

R. ENVIRONMENTAL COMMITMENT

The City of Ann Arbor recognizes its responsibility to minimize negative impacts on human health and the environment while supporting a vibrant community and economy. The City further recognizes that the products and services the City buys have inherent environmental and economic impacts and that the City should make procurement decisions that embody, promote, and encourage the City's commitment to the environment.

The City encourages potential vendors to bring forward emerging and progressive products and services that are best suited to the City's environmental principles.

S. ECONOMIC DEVELOPMENT ADMINISTRATION (EDA) ARCHITECT / ENGINEERING REQUIREMENTS

Submitted proposals must comply and be in accordance with procurement standards set forth in 2 CFR Part 200, and according to the EDA publication " Summary of EDA Construction Standards" located in Attachment H .

T. COMPENSATION/PRICING

1. Compensation to the architect/engineer for basic services must be either a fixed price or a cost reimbursement with an agreed maximum in order to be eligible.
2. All invoices for this project must be submitted to Ann Arbor SPARK, 330 East Liberty, lower level, Ann Arbor, MI 48104. A copy of the invoice must also be emailed to: tshewchuk@a2gov.org.

U. PROJECT BUDGET / EDA INVESTMENT

The budget terms of the award from the EDA are as follows:

- \$2,400,000 Federal Share (EDA)
- \$600,000 Non-Federal Matching Share
- Total Project Cost - \$3,000,000
- Architect/Engineering Fees - \$90,531
- Construction - \$2,909,469

SECTION II - SCOPE OF SERVICES

1. Background

Ann Arbor SPARK, the City of Ann Arbor, and the City of Ypsilanti has been awarded a U.S. Department of Commerce's Economic Development Administration (EDA) investment to architect/engineer and construct approximately 20 miles of new underground fiber and conduit to-and-from the City of Ann Arbor and the City of Ypsilanti. A preliminary engineering report was developed and submitted with the application for this award and is located in Attachment A of this RFP.

Ann Arbor SPARK, the City of Ann Arbor, and the City of Ypsilanti is soliciting proposals from contractors for Outside Plant (OSP) Network Design, Fiber and Conduit Route Planning, Construction Oversight and Permitting Services for the Ann Arbor-Ypsilanti Broadband Conduit project. The preliminary engineering report located in Attachment A should be utilized to develop a final engineering report.

The proposed fiber network includes 105,190 feet of all underground construction in existing City of Ann Arbor, City of Ypsilanti, Washtenaw County and Michigan Department of Transportation rights-of-way. Conduit will be constructed utilizing directional boring at a minimum depth of 24 inches. Minimum vertical and horizontal separations will be maintained with existing utilities, as required by each permitting agency with jurisdiction over the project. Conduit configuration consists of (2) 2" HDPE SDR11 duct. In one of the two ducts, a single 432-count loose-tube fiber-optic cable will be installed and spliced.

The project will include installation of 150 composite tier 22 underground vaults sized at 30" by 48" by 36" within existing rights of way. Vaults are planned at intervals of no more than 800'. All vaults have a tier 22 load rating. All handholes will house 50' – 150' of fiber optic cable slack. A #12 AWG insulated tracer wire is planned to be pulled inside one of the two 2" conduits for underground utility locating purposes. Tracer wire will be grounded with 5/8"x8' copper clad ground rods.

All fiber-optic splice cases shall be Commscope gel sealed 450D sized closures. Closures are 30" long and are capable of housing up to 576 single fusion splices. Splice cases shall be loaded with splice trays capable of holding 24 single fusion fiber splices with protective sleeves.

2. Requirements

The scope of anticipated services and specifications in the architecture/engineering design the contractor is expected to perform and utilize is described in detail below. In addition, City of Ann Arbor Fiber & Conduit Design and Construction Detailed Technical Specifications are provided in Exhibit A and are to be incorporated into the final architect/engineering design if applicable.

A. OSP Design and Fiber Route Planning Services

1. Final architect/engineering design needs to be completed no longer than 60 days after the a fully executed agreement is completed between parties.
2. Develop clear, concise, and accurate documented design to mitigate construction issues and increase project success.
3. Provide all viable route options, accurate information, new industry technology, new products, and industry best practices to allow the City to select the most optimal solution.
4. The city fiber network utilizes Corning products and carries a 25-year Corning warranty. This design must adhere to Corning standards and must be certified once construction is completed.
5. Utilize existing City infrastructure (i.e. conduit, fiber, City power), if feasible.
6. The proposed fiber optic network design is all underground construction, unless otherwise approved by the City of Ann Arbor.
7. Provide route engineering that includes make-ready recommendations and all required pole attachment applications per the design recommendation, if feasible.
8. Provide design drawings compatible with and ready for use in ESRI's ArcGIS software, specifically in shapefile format or feature class files contained inside a file geodatabase. Design drawings must also be correctly georeferenced (i.e., all elements of the drawing must be comprised of coordinate points or geometry that correctly correspond to the coordinates of their real-world counterparts) and to scale. Required projected coordinate system for use is "NAD 1983 StatePlane Michigan South FIPS 2113 (Intl Feet)" (WKID 2253).
9. Expected to produce comprehensive computerized design maps and detailed CAD drawings of entire route and route options, including aerial-to-underground splice-closures, hand-hole placements and any associated equipment necessary for network construction.
10. The Contractor will provide on-site field/site surveys and splice point requirements as required.
11. Provide, for underground facility, conduit design, conduit detailing, hand-hole detailing, prepare all forms and documentation for approval of

- conduit construction and/or installation, and verify as-builts.
12. Is required to act on the City's behalf in rights of way negotiations and communicate with local and state governmental jurisdictions so aerial and underground infrastructure requirements are met.
 13. Is required to provide, consolidated field notes and electronically store in a format approved by the City of Ann Arbor.
 14. Provide detailed site drawings, permit detail drawings, and overview maps in an electronic format approved by the City of Ann Arbor.
 15. Will input all pole attachment inventories for pole attachment agreements between the Consultant and other utilities into an electronic format approved by the City of Ann Arbor.
 16. Appropriately label all network components (cabling, splice enclosures, etc.) based upon industry best practices and adhere to labeling requirements of third-party pole owners (e.g., AT&T, DTE, railroad, etc.) and the City of Ann Arbor labeling requirements.
 17. Be responsible for staking the route and producing computerized maps in an electronic format approved by the City of Ann Arbor.
 18. Will provide GPS points of reference for utility poles. The Consultant will provide photo images of utility poles the fiber will be attached to. The Consultant will provide GPS points of reference for hand holes, street crossings, and splice enclosures.
 19. Proof conduit or duct for capacity and availability.

B. Design, Planning, and Construction Technical Specifications

The following technical specifications were used in previous City fiber and conduit deployments. These specifications shall be utilized unless otherwise determine by the City.

1. The City requires the use of Corning single-mode [\(SMF-28e+\)](#) optical fiber that is compliant with the new International Telecommunication Union (ITU) standards for low water-peak fibers, ITU G.652.C, as well as Telecommunications Industry Association and Electronic Industries Alliance (TIA/EIA) standards. The fiber will provide the City of Ann Arbor versatility and flexibility to grow network systems as the demand grows.

2. The City of Ann Arbor requires the deployment of a hybrid CWDM (Course Wave Division Multiplexing) / DWDM (Dense Wave Division Multiplexing) fiber optic network that will deliver a host of broadband connectivity options in a very cost-effective manner.
3. The network design must be flexible enough to allow the City of Ann Arbor to offer Ethernet, leased fiber, and wave services to anyone where capacity is available.
4. Exhibit A provides a listing of equipment specifications for conduit, handholes and other OSP equipment currently in use by the City of Ann Arbor. The City prefers to utilize hand-hole makes, models and sizes that are consistent with current practice.
5. It should be noted that conduits entering handholes through the sidewall (as opposed to being swept up and entering from the bottom) that the hole in the wall of the handhole must be sealed with concrete to prevent dirt and debris from entering the handhole. This includes new handholes or connecting into existing handholes. Any vacant conduits must be plugged/sealed.
6. Directional bore shots can stretch conduit. Over time, the conduit can slowly retract. The City of Ann Arbor has locations where the conduit has retracted out of the hand hole. This needs to be addressed during the design to prevent future occurrence.
7. In the absence of explicit specifications contained within in this RFP, Consultants must adhere to industry best practice and follow all applicable local, state, and federal regulations, including bonding and grounding guidelines and requirements.

C. Permitting

1. Contractor will be required to manage the permitting process with various entities under the direction of City of Ann Arbor.
2. Proposers should be aware that DTE and AT&T own and maintain most poles located throughout the City of Ann Arbor. DTE and AT&T have separate permitting processes from the City of Ann Arbor.
3. Contractor must apply-for, on behalf of the City of Ann Arbor, and secure all necessary permits from municipal, county, state, and local Consultants (e.g., AT&T, DTE, Washtenaw County Road Commission, Railroad, etc.) for construction of the new segment. It is the sole responsibility of the Consultant to secure all permits for the construction. Working experience with DTE is a plus and the Consultants should provide this information in detail within the Professional Qualifications element of the RFP submittal.

D. Project Management

1. Assign a Project Manager to all projects and utilize industry standard project management methodologies to ensure projects are delivered within budget and on time.
2. Maintain and up-to-date project plan that reflects the current state of the project.
3. Work closely with the City's Project Manager to ensure project success.
4. Attend or conduct regularly scheduled status meetings.
5. Mitigate and escalate issues to executive stakeholders and project team.
6. Manage the change order process.

E. The City will:

1. Upon award of the contract, the City will provide mapped and electronic information about existing infrastructure including information about City owned conduit, fiber, partner assets and existing water utilities infrastructure so fiber can be placed efficiently (refer to Attachment H for a listing of available data sources).
2. Provide access to City-owned streetlights and poles. The City will help ensure access to existing infrastructure where appropriate.
3. As a pole owner, in instances where there is useable, excess space and capacity on the pole, the City of Ann Arbor may be able to reallocate pole space. If feasible, The City may choose to install their own pole.
4. Provide access to City-owned property for placement of infrastructure that will permit providers to reach required areas within the City.

Consultant's Proposal

In keeping with the objective, the description, the requirements, and the consultant's tasks as previously indicated in this Request for Proposal, the consultants submitting proposals shall outline in detail the manner in which the consultant shall work with the City to fulfill the City's needs.

The outline at a minimum shall address:

- A. Staffing and personnel.
- B. Communication and coordination.
- C. Compatibility with city's standards, goals, and objectives.
- D. Working relationship between consultant and City staff.
- E. Information which will assist the City to determine the consultant's capability of performing the work.

SECTION III - MINIMUM INFORMATION REQUIRED

PROPOSAL FORMAT

Offerors should organize Proposals into the following Sections:

- A. Professional Qualifications
- B. Past Involvement with Similar Projects
- C. Proposed Work Plan
- D. Fee Proposal (include in a separate sealed envelope clearly marked "Fee Proposal") – see EXHIBIT B - COMPENSATION AND FEE PROPOSAL FORM provided herein
- E. Authorized Negotiator
- F. Attachments

The following describes the elements that should be included in each of the proposal sections and the weighted point system that will be used for evaluation of the proposals.

A. Professional Qualifications – 20 points

1. State the full name and address of your organization and, if applicable, the branch office or other subsidiary element that will perform, or assist in performing, the work hereunder. Indicate whether it operates as an individual, partnership, or corporation. If as a corporation, include whether it is licensed to operate in the State of Michigan.
2. Include the name of executive and professional personnel by skill and qualification that will be employed in the work. Show where these personnel will be physically located during the time they are engaged in the work. Indicate which of these individuals you consider key to the successful completion of the project. Identify only individuals who will do the work on this project by name and title. Resumes and qualifications are required for all proposed project personnel, including all subcontractors. Qualifications and capabilities of any subcontractors must also be included.
3. State history of the firm, in terms of length of existence, types of services provided, etc. Identify the technical details that make the firm uniquely qualified for this work.

B. Past involvement with Similar Projects – 30 points

The written proposal must include a list of specific experience in the project area and indicate proven ability in implementing similar projects for the firm **and** the individuals to be involved in the project. A complete list of client references must be provided for similar projects recently completed. The list shall include the firm/agency name, address, telephone number, project title, and contact person.

C. Proposed Work Plan – 30 points

Provide a detailed and comprehensive description of how the offeror intends to provide the services requested in this RFP. This description shall include, but not be limited to: how the project(s) will be managed and scheduled, how and when data and materials will be delivered to the City, communication and coordination, the working relationship between the offeror and City staff, and the company's general philosophy in regards to providing the requested services.

Offerors shall be evaluated on the clarity, thoroughness, and content of their responses to the above items.

D. Fee Proposal - 20 points

Fee schedules shall be submitted in a separate, sealed, envelope as part of the proposal as provided in EXHIBIT B - COMPENSATION AND FEE PROPOSAL FORM provided herein . Fee quotations are to include the names, title, hourly rates, overhead factors, and any other relevant details. The proposal should highlight key staff and positions that would likely be involved with projects. Offerors shall be capable of justifying the details of the fee proposal relative to personnel costs, overhead, how the overhead rate is derived, material and time.

E. Authorized Negotiator

Include the name, phone number, and e-mail address of persons(s) in your organization authorized to negotiate the agreement with the City

F. Attachments

Legal Status of Offeror, Conflict of Interest Form, Living Wage Compliance Form, and the Non-Discrimination Form should be returned with the proposal. These elements should be included as attachments to the proposal submission.

PROPOSAL EVALUATION

1. The selection committee will evaluate each proposal by the above-described criteria and point system (A through C) to select a short-list of firms for further consideration. The City reserves the right to reject any proposal that it determines to be unresponsive and deficient in any of the information requested for evaluation. A proposal with all the requested information does not guarantee the proposing firm to be a candidate for an interview. The committee may contact references to verify material submitted by the offerors.

2. The committee then will schedule interviews with the selected firms if necessary. The selected firms will be given the opportunity to discuss in more detail their qualifications, past experience, proposed work plan and fee proposal.
3. The interview must include the project team members expected to complete a majority of work on the project, but no more than six member's total. The interview shall consist of a presentation of up to thirty minutes (or the length provided by the committee) by the offeror, including the person who will be the project manager on this contract, followed by approximately thirty minutes of questions and answers. Audiovisual aids may be used during the oral interviews. The committee may record the oral interviews.
4. The firms interviewed will then be re-evaluated by the above criteria (A through D), and adjustments to scoring will be made as appropriate. After evaluation of the proposals, further negotiation with the selected firm may be pursued leading to the award of a contract by City Council, if suitable proposals are received.

The City reserves the right to waive the interview process and evaluate the offerors based on their proposals and fee schedules alone and open fee schedules before or prior to interviews.

The City will determine whether the final scope of the project to be negotiated will be entirely as described in this RFP, a portion of the scope, or a revised scope.

Work to be done under this contract is generally described through the detailed specifications and must be completed fully in accordance with the contract documents.

Any proposal that does not conform fully to these instructions may be rejected.

PREPARATION OF PROPOSALS

Proposals should have no plastic bindings but will not be rejected as non-responsive for being bound. Staples or binder clips are acceptable. Proposals should be printed double sided on recycled paper. Proposals should not be more than 30 sheets (60 sides), not including required attachments and resumes.

Each person signing the proposal certifies that they are a person in the offeror's firm/organization responsible for the decisions regarding the fees being offered in the Proposal and has not and will not participate in any action contrary to the terms of this provision.

ADDENDA

If it becomes necessary to revise any part of the RFP, notice of the addendum will be posted to Michigan Inter-governmental Trade Network (MITN) www.mitn.info and/or the City of Ann Arbor web site www.A2gov.org for all parties to download.

Each offeror must acknowledge in its proposal all addenda it has received. The failure of an offeror to receive or acknowledge receipt of any addenda shall not relieve the offeror of the responsibility for complying with the terms thereof. The City will not be bound by oral responses to inquiries or written responses other than official written addenda.

SECTION IV - ATTACHMENTS

Attachment A – Preliminary Engineering Report

Attachment B - Legal Status of Offeror

Attachment C – Non-Discrimination Ordinance Declaration of Compliance Form

Attachment D – Living Wage Declaration of Compliance Form

Attachment E – Vendor Conflict of Interest Disclosure Form

Attachment F – Non-Discrimination Ordinance Poster

Attachment G – Living Wage Ordinance Poster

Attachment H – EDA publication “Summary of EDA Construction Standards”

Exhibit A - City of Ann Arbor Fiber & Conduit Design and Construction
Detailed Technical Specifications

Exhibit B – Compensation and Fee Proposal Form

ATTACHMENT A
PRELIMINARY ENGINEERING REPORT



Preliminary Engineering Report

Prepared by:



C.1. Description of Project Components

Provide a general description of all project components involved in the project. Indicate whether the project involves the construction of new infrastructure or facilities or the renovation or replacement of existing ones. Describe each of the project components in terms of dimensions, quantities, capacities, square footage, etc.

The Corridor Fiber Optic Backbone project will connect downtown Ann Arbor with downtown Ypsilanti and the American Center for Mobility. This creates public broadband infrastructure that tech companies, the cities and businesses can utilize along the corridor for innovative products, affordable & reliable broadband, and company location.

This is a multi-phased project, with Phase 1 already funded and engineering in progress. The City will begin construction of Phase 1 in early 2021 with completion in mid-2021. Phase 1 constructs high capacity fiber-optic cable and conduit within Ann Arbor's Downtown Development Authority District ("DDA") to ensure the City has the capacity to connect all commercial locations in the area. This network also connects to the City's existing 35-mile fiber network, which was funded by the City over the past 10 years and connects municipal, educational and other institutional users. Phase 1 is funded through a Local Development Finance Authority ("LDFA") grant.

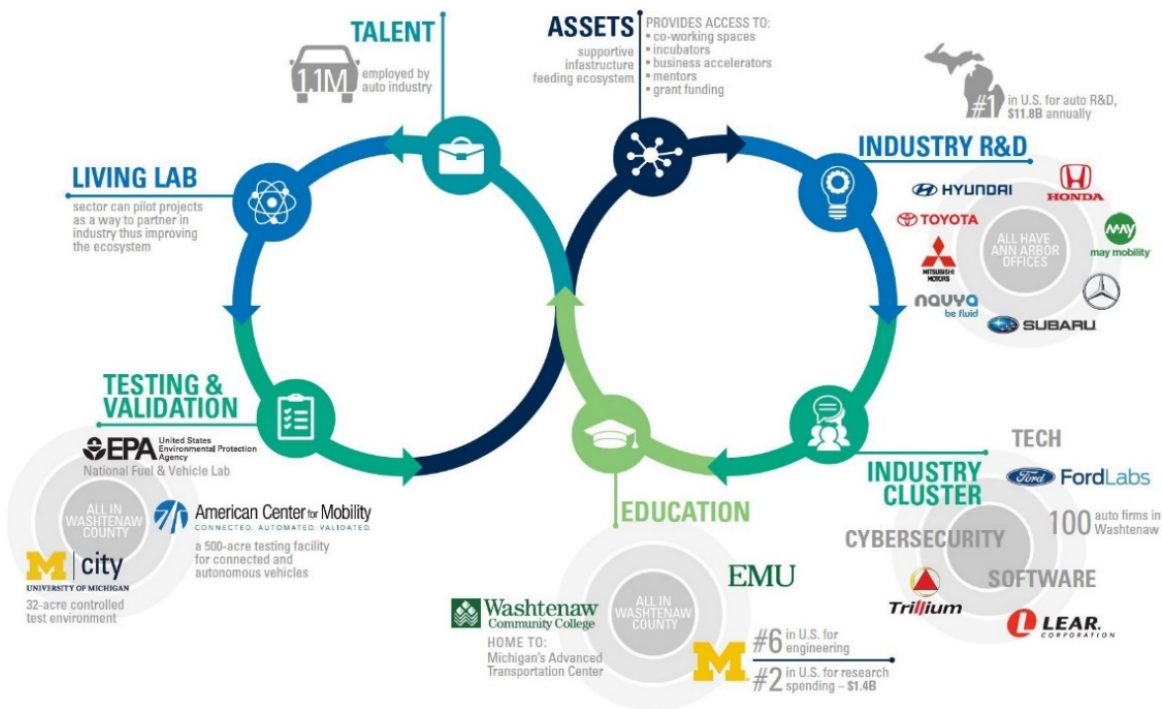
Phase 2, for which the City seeks EDA funding, will consist of constructing new conduit and fiber network to connect the City of Ann Arbor SmartZone to the City of Ypsilanti SmartZone. It will extend the City's existing investments in fiber and conduit to the City of Ypsilanti SmartZone and the American Center for Mobility ("ACM"). Connecting these networks will provide a regional high-speed broadband system with the following advantages:



- It will provide access to a large unrestricted network for public, private, government, and education organizations to support collaboration and foster technology transfer and job creation;
- It will be a new source for high-speed and low-cost broadband access, to support existing businesses and attract new jobs to the region; and,
- It will connect the two SmartZones, support the implementation of advanced technologies and enable the creation and expansion of technology companies and employment within the corridor.

Investment in this fiber-optic expansion leverages other community assets and supports the Living Lab or "testbed" concept for new innovations. Since this asset will be utilized by both the public and private sector organizations, it provides opportunities to achieve several SmartZone objectives.

1. **Promote more equitable growth**, especially on the eastern portion of the county. The economic need to be addressed is to ensure that there is equal economic development across the Ann Arbor Region. The fiber conduit proposed in this project is mostly located outside of Downtown Ann Arbor and provides a fiber network to four different opportunity zones. The fiber conduit would also ensure that the two largest cities in Washtenaw County, Ann Arbor and Ypsilanti, are better connected in a coordinated economic development strategy focused on creating technology-based jobs that rely on broadband infrastructure. These types of jobs are poised to outpace all other job sectors in job expansion, especially as we enter the new normal post COVID-19.
2. **Encourage & support Smart City initiatives** – Smart City initiatives utilize technology infrastructure to interface and leverage data and applications to deliver innovative, efficient, and networked services. The abundance of tech companies in the region along with high quality infrastructure can be an incubator for innovation and implementation of technology services. These new services will allow and encourage tech companies and employees to innovate and implement new technologies. As stated in the support letter from the University of Michigan’s Transportation Research Institute (UMTRI), fiber backbone will attract vehicle manufacturers and suppliers to the area to test the vehicle-based systems they’ve developed at the American Center for Mobility in a real-world roadway environment.
3. **Assist in establishment of reliable/affordable internet access** – This project encourages reliable and affordable broadband access by providing infrastructure multiple parties can access without installing duplicative investment. This enables existing companies to lower their overall costs of doing business, while having access to higher-speed, more resilient broadband, supporting their growth and creating new jobs.
4. **Support company creation/growth/viability** – Having this infrastructure in place is the foundation to facilitate connectivity between people, assets, and ideas. By having access to the infrastructure, third party companies can focus on product/service innovation since there’s a low hurdle for testing and deployment.



Network cost estimates are based on rates for labor, materials and equipment from comparable projects in the region. Costs reflect existing ground and soil conditions. All prevailing wage rates have been considered when calculating construction costs. All components of the preliminary engineering report have been prepared by resources experienced with planning, engineering, costing and constructing fiber optic network infrastructure in this region.

Project Components

The proposed fiber network includes 105,190 feet of all underground construction in existing City of Ann Arbor, City of Ypsilanti, Washetnaw County and Michigan Department of Transportation rights-of-way. Conduit will be constructed directional boring at a minimum depth of 24 inches. Minimum vertical and horizontal separations will be maintained with existing utilities, as required by each permitting agency with jurisdiction over the project. Conduit configuration consists of (2) 2" HDPE SDR11 duct. In one of the two ducts, a single 432-count loose-tube fiber-optic cable will be installed and spliced.

The project will include installation of 150 composite tier 22 underground vaults sized at 30" by 48" by 36" within existing rights of way. Vaults are planned at intervals of no more than 800'. All vaults have a tier 22 load rating. All handholes will house 50' – 150' of fiber-optic cable slack. A #12 AWG insulated tracer wire is planned to be pulled inside one of the

two 2" conduits for underground utility locating purposes. Tracer wire will be grounded with 5/8"x8' copper clad ground rods.

All fiber-optic splice cases shall be Commscope gel sealed 450D sized closures. Closures are 30" long and are capable of housing up to 576 single fusions splices. Splice cases shall be loaded with splice trays capable of holding 24 single fusion fiber splices with protective sleeves.

C.2. Verification of Compliance with EDA Investment Project

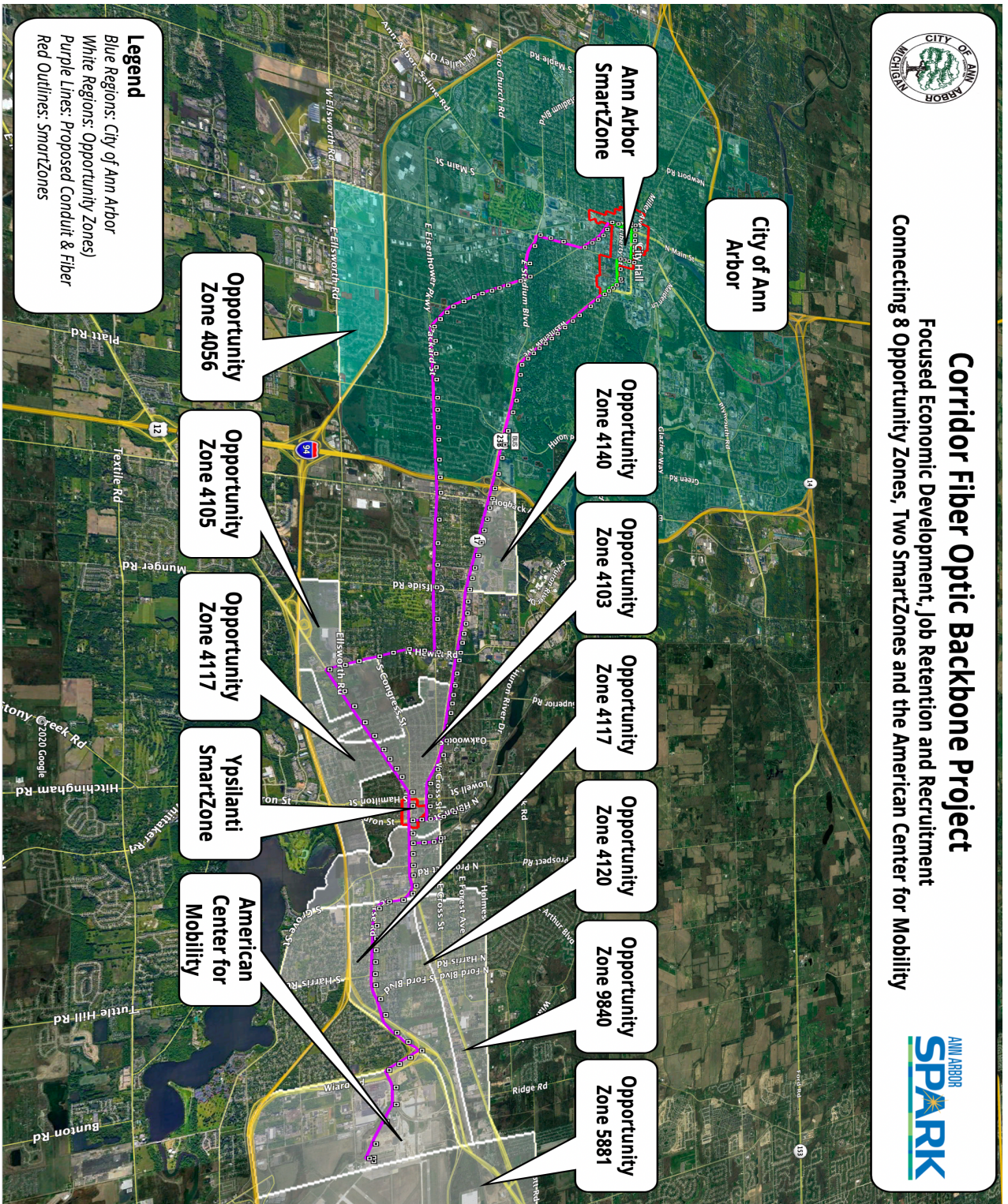
A statement verifying that the project components described in the engineering report are consistent with the EDA investment project description that is provided in Section B.2 of Form ED-900.

All network components that have been designed as a part of this project are consistent with the EDA investment project description as detailed in section B.2 of Form ED-900.

C.3 Network Drawings and Construction Typical Detail Drawings

Drawings showing the general layout and location of the existing site conditions and of the project components as well as location of any project beneficiary identified in Section B.9 of Form ED-900 that provide economic justification for the project, if any. Rough dimensions and quantities for major project components should be shown and labeled on the drawings. Drawings should clearly identify the project components that are being proposed. Applicants are encouraged to clarify such drawings, for example, through color coding, labeling, and other appropriate methods.

High-Level Drawings and Location of Project Beneficiaries provided in Appendix A.



Corridor Fiber Optic Backbone Project
 Focused Economic Development, Job Retention and Recruitment
 Connecting 8 Opportunity Zones, Two SmartZones and the American Center for Mobility

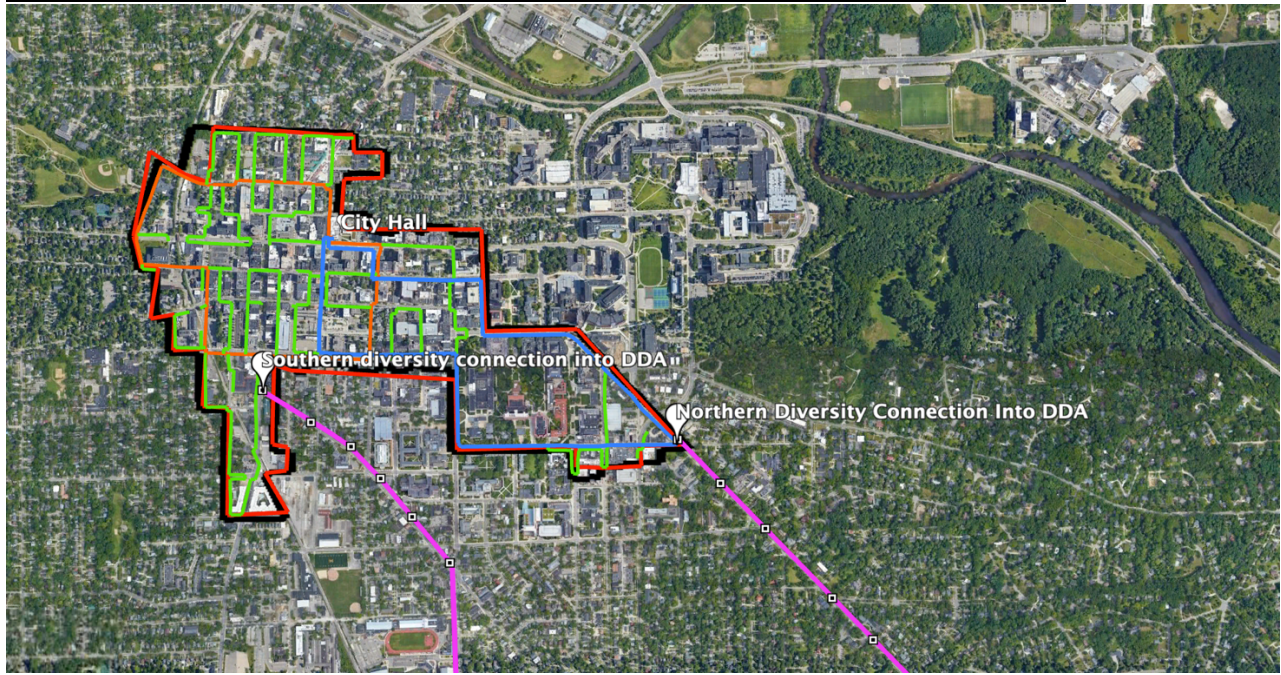


Purple running line illustrating primary route with vault placement from the City of Ann Arbor DDA District (SmartZone) through the City of Ypsilanti SmartZone and connecting through to the American Center for Mobility. Top left red lines illustrating interconnection with the City of Ann Arbor DDA District (Top Left Corner). Central red lines illustrating interconnection with the City of Ypsilanti SmartZone.

PROPOSED FIBER-OPTIC ROUTING TO DDA

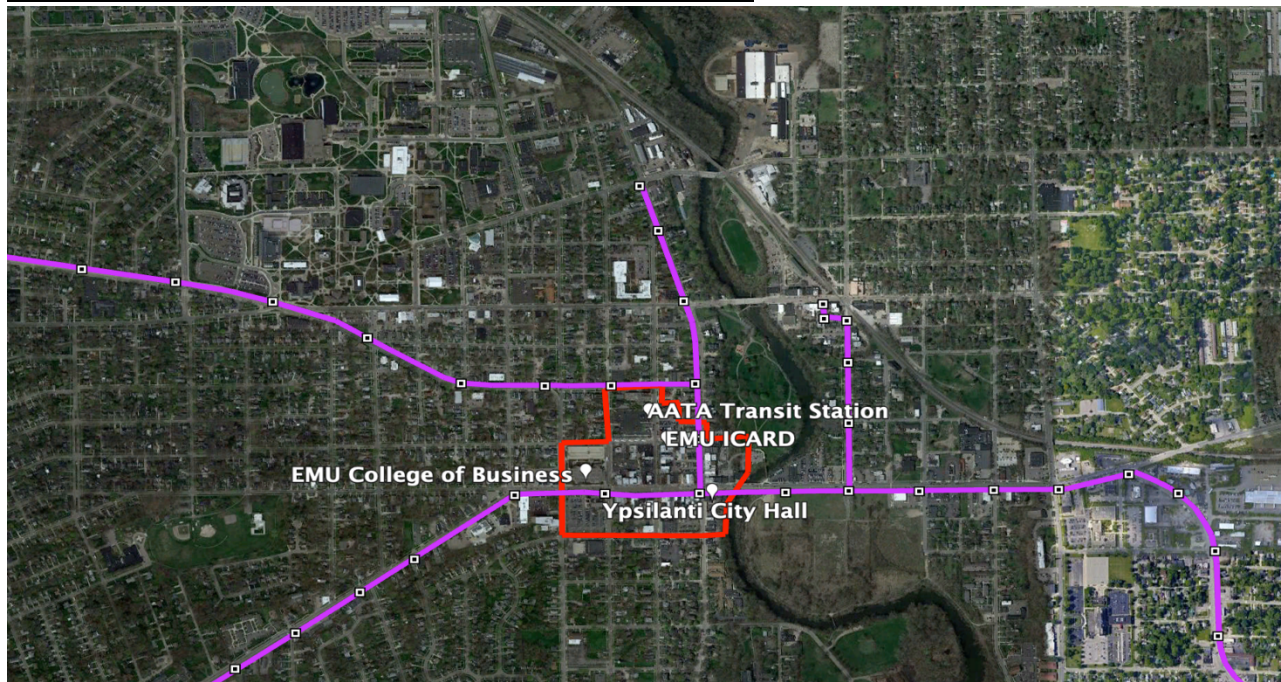
- Proposed pathway: 105,190'
- Environment: underground construction, combination of trench and directional bore
- Underground directional boring of 2 2" HDPE SDR-11 ducts
- Proposed vaults: quantity (150) of 30"x48"x36" composite tier 22 vaults
- Proposed backbone cabling: 432-count single mode OS2 dielectric fiber-optic cable

ANN ARBOR DDA WITH REDUNDANT CONDUIT AND FIBER ROUTE TO YPSILANTI



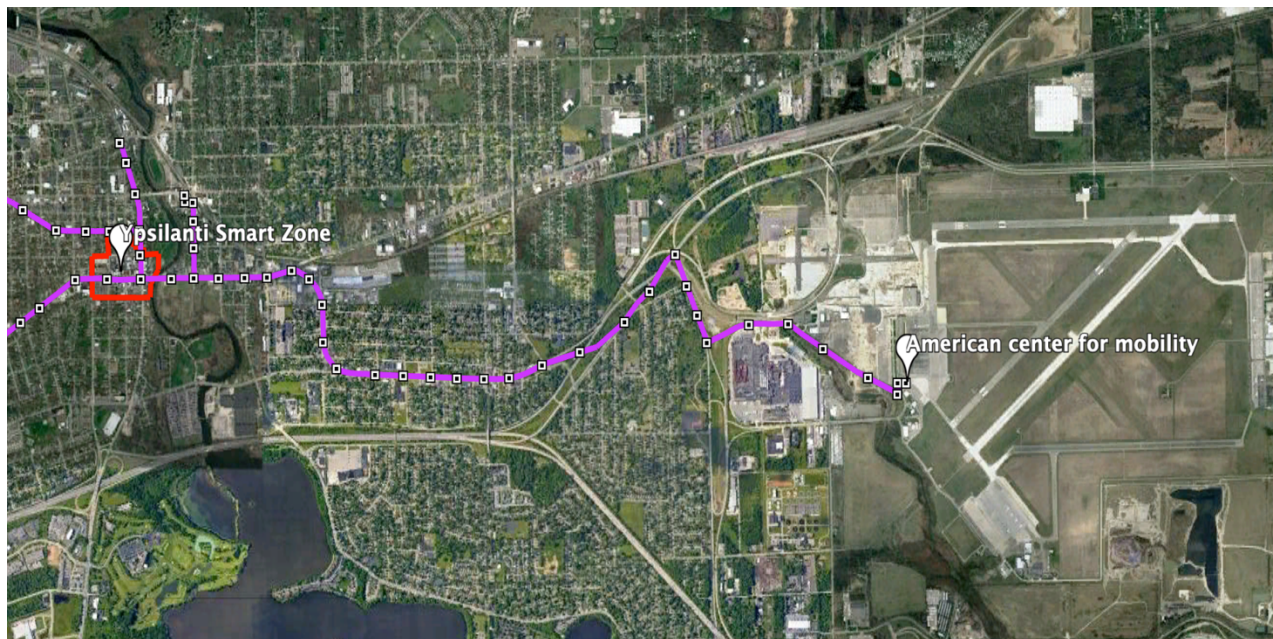
Purple running lines illustrating the Phase 2 fiber and conduit planned for construction in this project. Red, green and blue lines illustrate the Phase 1 fiber and conduit being currently engineered and built by the City of Ann Arbor.

CONDUIT AND FIBER ROUTE TO YPSILANTI SMART ZONE



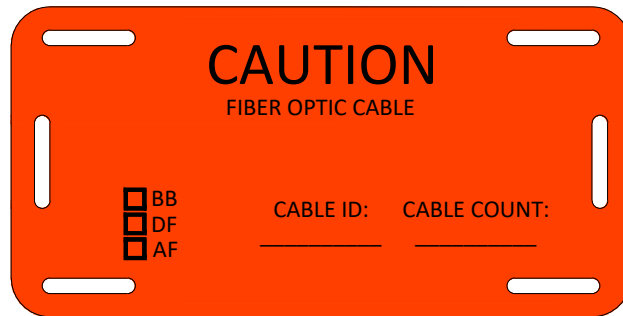
Purple running lines illustrating the Phase 2 fiber and conduit planned for construction in this project. Red polygon illustrates the Ypsilanti Smart Zone interconnecting with the Phase 2 fiber and conduit network to be built in this project.

CONDUIT AND FIBER CONNECTION TO AMERICAN CENTER FOR MOBILITY



Purple running lines illustrating the Phase 2 fiber and conduit planned for construction in this project, connecting with the American Center for Mobility.

CONSTRUCTION TYPICAL & CROSS-SECTION DETAIL DRAWINGS



- CABLE ID TAGS ARE REQUIRED WHERE THERE ARE MULTIPLE CABLES WITHIN THE UG VAULTS



- SNAP TAGS ARE REQUIRED WHERE THERE ARE UG CABLES



DATE: 8/31/2017
REVISION: CLM

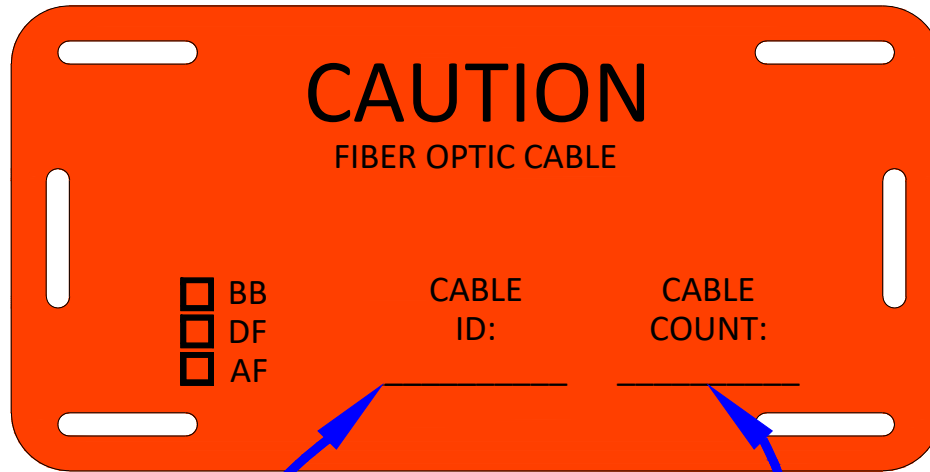
SCALE: NTS

TYPICAL
CABLE ID & SNAP TAGS
UNDERGROUND

—
—



LABELING EXAMPLE



288 et
BUC001a, 1-198
x, 193-288



DATE: 08/31/2017
REVISION: CLM

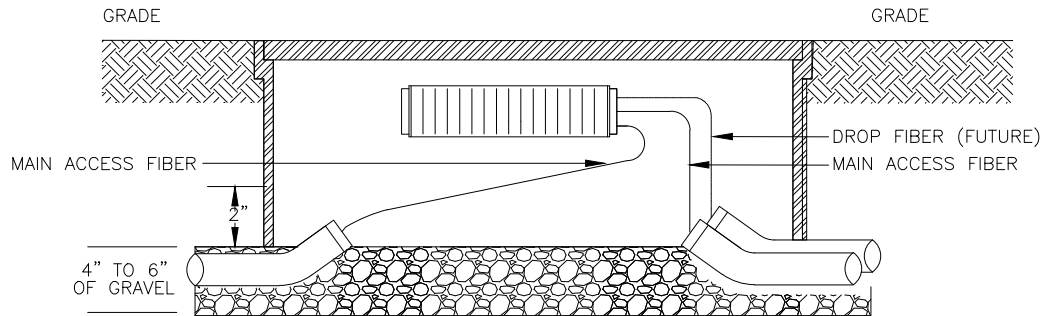
SCALE: NTS

TYPICAL
CABLE ID TAG
EXAMPLE

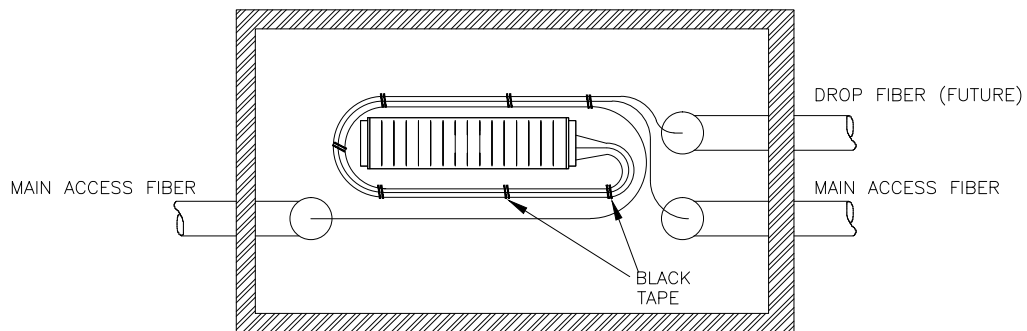
—
—



CONCEPTUAL SIDE VIEW



ROUTING TOP VIEW



NOTE:
 LEAVE 75FT OF SLACK
 FROM CONDUIT TO CONDUIT.
 LEAVE 60FT OF SLACK FOR
 END OF LINE NAP.
 ROUTE MAIN AND DROP CABLES
 TOGETHER FROM CONDUITS TO CLOSURE.
 DO NOT EXCEED MINIMUM CABLE BEND
 RADIUS. CONDUITS MUST NOT EXTEND MORE
 THAN 2" ABOVE GRAVEL.



DESCRIPTION	QTY	MANUFACTURER (PREFERRED)	PART #
DOMESTYLE CLOSURE	1		
BLACK TAPE	VARIES		



TYPICAL
 UNDERGROUND
 NAP LOCATION

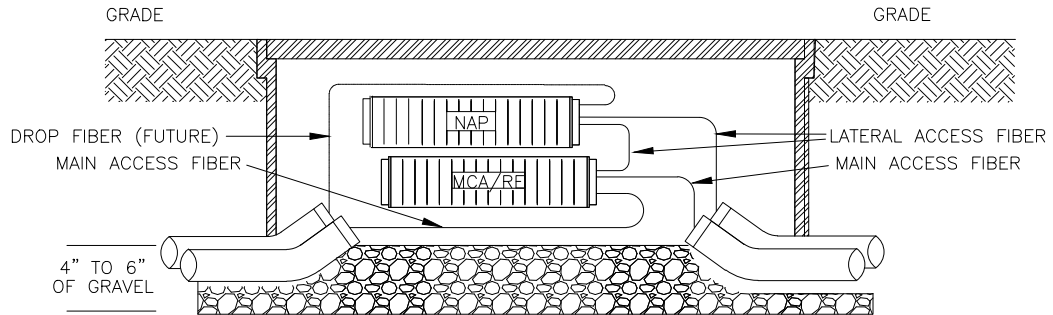
(UG-NAP)

DATE: 8/31/2017
 REVISION: CLM

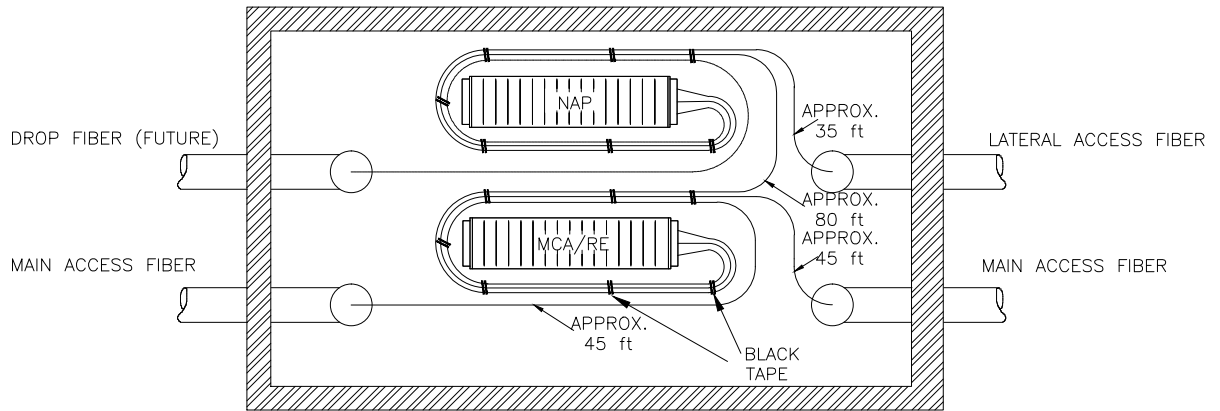
SCALE: NTS



CONCEPTUAL SIDE VIEW



ROUTING TOP VIEW



NOTE:

FOR RE/NAP MAIN CABLE INPUT SIDE LEAVE 150FT OF SLACK AND 75FT FOR OUTPUT SIDE LATERAL 75FT FROM END OF CONDUIT.

FOR MCA/NAP LEAVE 205FT OF SLACK AND 75FT FOR LATERAL FROM CONDUIT TO CONDUIT.



DESCRIPTION	QTY	MANUFACTURER (PREFERRED)	PART #
DOME STYLE CLOSURE	1		
BLACK TAPE	VARIES		



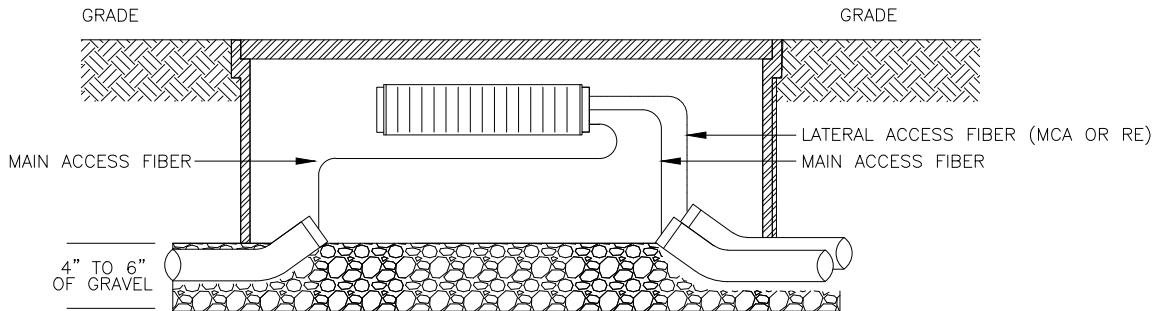
DATE: 8/31/2017
REVISION: CLM

SCALE: NTS

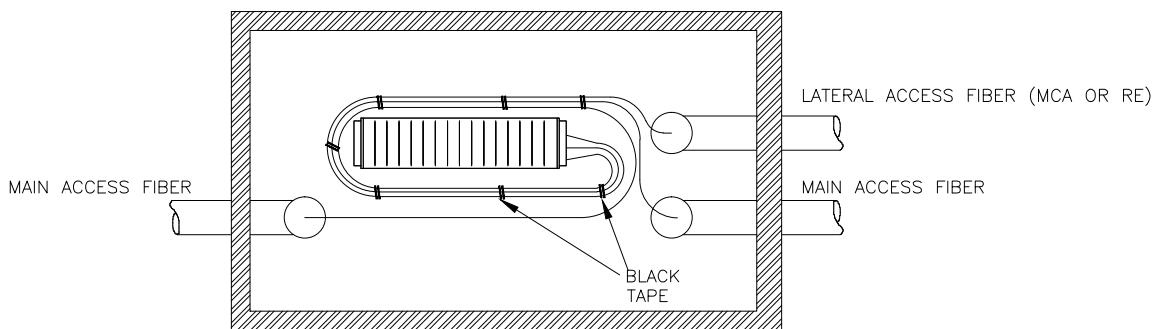
TYPICAL
UNDERGROUND
NAP/RE/MCA
SPLICE CLOSURES
(UG-NAP/RE/MCA)



CONCEPTUAL SIDE VIEW



ROUTING TOP VIEW



NOTE:
FOR MCA/NAP LEAVE 130FT OF SLACK FROM
CONDUIT TO CONDUIT IN MAIN CABLE. LEAVE
75FT FOR LATERAL CABLE. ROUTE MAIN,
LATERAL AND DROP CABLES TOGETHER FROM
CONDUITS TO CLOSURES. DO NOT EXCEED
MINIMUM CABLE BEND RADIUS. CONDUITS
MUST NOT EXTEND MORE THAN 2" ABOVE
GRAVEL.



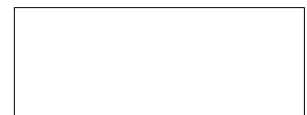
DESCRIPTION	QTY	MANUFACTURER (PREFERRED)	PART #
DOME STYLE CLOSURE	1		
BLACK TAPE	VARIES		



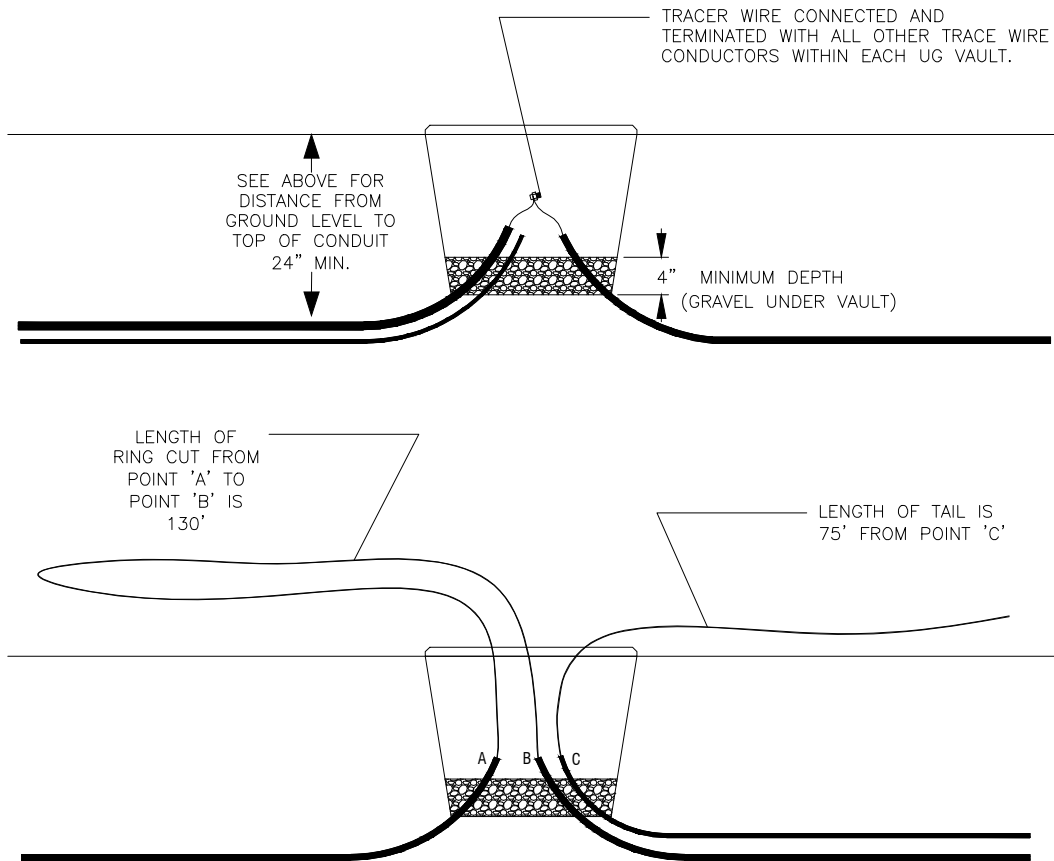
DATE: 8/31/2017
REVISION: CLM

SCALE: NTS

TYPICAL
UNDERGROUND
MCA
SPLICE LOCATION
(UG—MCA)



NOTE:
 DISTANCE FROM GROUND LEVEL TO TOP OF CONDUIT:
 24" IN SUBDIVISIONS
 36" ALONG STATE HIGHWAYS
 48" UNDER STATE HIGHWAYS



DESCRIPTION	QTY	MANUFACTURER (PREFERRED)	PART #
HANDHOLE GRADE LEVEL ENCLOSURE, VARIOUS SIZES	1		
CONDUIT, HDPE SDR 13.5, VARIOUS SIZES	N/A		
#12 TRACER WIRE	N/A		



TYPICAL
 UNDERGROUND
 SLACK MEASUREMENT

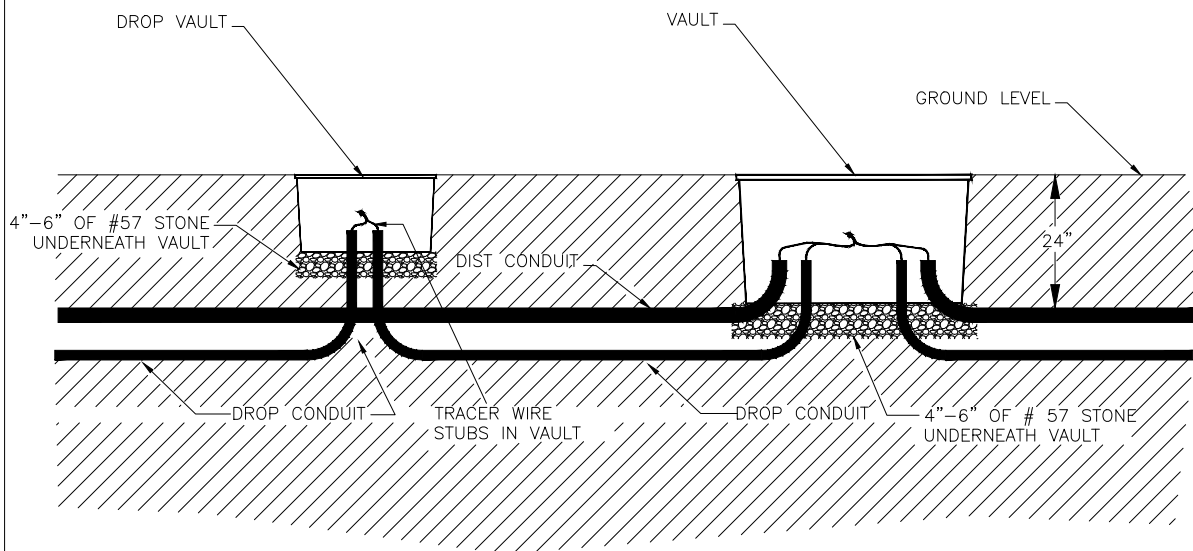
(UG-SM)

DATE: 8/31/2017
 REVISION: CLM

SCALE: NTS



NOTE:
CONDUIT SHOULD ENTER VAULTS
AT MAXIMUM 20° ANGLE



DESCRIPTION	QTY	MANUFACTURER (PREFERRED)	PART #
HANDHOLE GRADE LEVEL ENCLOSURE, VARIOUS SIZES	1		
CONDUIT, HDPE SDR 13.5, VARIOUS SIZES	N/A		
#12 TRACER WIRE	N/A		
#57 STONE	VARIES		



DATE: 8/31/2017
REVISION: CLM

SCALE: NTS

TYPICAL
VAULTS WITH
GRAVEL
UNDERNEATH
(GRAVEL-UG)



Carsonite Test Station Unit

CTS

Complete with Test Station, Carsonite LineMarker™ post, visibility enhancer and Trencher



How to Order

TEST STATION AND POST WITH BUNDLE

Form with fields for Product number, Test Station, and Test Station Bundle. Includes a table for Test Station Bundle with columns for Product number, Test Station, and Test Station Bundle.

Product number	Test Station	Test Station Bundle
CTS-1	1	1
CTS-2	2	2
CTS-3	3	3
CTS-4	4	4
CTS-5	5	5
CTS-6	6	6
CTS-7	7	7
CTS-8	8	8
CTS-9	9	9
CTS-10	10	10

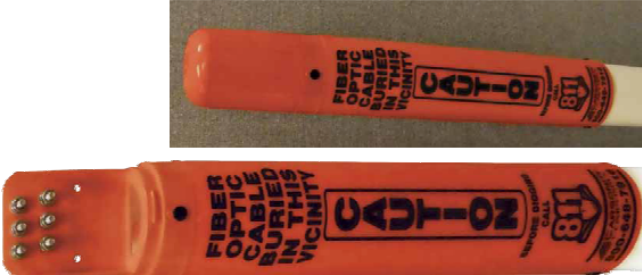
Order part lengths in increments of 100 feet. Contact your agent for more details.

Material

Test Station: Polycarbonate
Post: Polypropylene

Options and Accessories

Back in station depth
Direct coupling
Reflective sheathing
Hardwired kit



Carsonite Corporation • 800-544-7915 • www.carsonite.com



PROPRIETARY INFORMATION NOT TO BE RELEASED WITHOUT PERMISSION OF
MAGELLAN ADVISORS
DATE: 05/09/2016
REVISION: JSG

SCALE: NTS

TYPICAL
MARKER POST

C.4. Construction Feasibility Analysis

Include a review of the existing conditions and note particular features, alignments, and circumstances affecting construction of project components.

Constructability of the proposed network has been considered and reflected in the proposed network construction plans and cost estimates. Review of existing utility records, rights-of-way, water crossings, ditches and preliminary environmental impacts have been considered as a part of the feasibility to construct this route along City of Ann Arbor, City of Ypsilanti, Washtenaw County and Michigan Department of Transportation rights of way.

Construction will occur in existing rights-of-way. Analysis of these rights-of-way indicate that there is enough space for such construction, allowing the project to meet horizontal and vertical separation with existing utilities. In an effort to minimize the impacts of open trenching installation, such as the production of loose soil, rocks and hardscape debris, this feasibility review has proposed that trenchless directional boring be used as the primary method of installation.

Utility locating, working hours and scheduled locations of work will all be closely coordinated between project management, the construction contractor and all stakeholders to minimize impact to the area and the Willow Run Airport's operations.

C.5. Proposed Method of Construction

Indicate whether construction procurement will be done through competitive bid or other method. Indicate if any portion of the project is to be done by design/build, construction management at risk, the applicant's own forces, or a third-party construction manager. If an alternate construction procurement method (other than traditional design/bid/build with sealed competitive bid process) is proposed, a construction services procurement plan must be provided to EDA for approval in accordance with EDA's regulation at 13 C.F.R. § 305.6(a).

All methods of procurement are planned as traditional design/bid/build with a sealed competitive bidding process. A contractor will be selected through a request for bids (RFB) process with the lowest qualified bidder selected for the construction contract. Unit rates will be requested based on the total quantities input on the unit rate pricing sheet for anticipated amounts to be installed on the project as designed. Construction oversight and inspections will be managed by the engineer of record for the project.

C.6. Construction Contracts

If multiple contracts are proposed, describe the project components included in each contract. If separate contracts are anticipated for demolition or site work, the budget information cost classification should reflect the estimated costs for these components. If project phasing is proposed, a project phasing request must be provided to EDA for approval per EDA's regulation at 13 C.F.R. § 305.9(a).

A single construction contract will be awarded to a qualified firm that responds to the request for bids (RFB) with the lowest qualified bid for the project. The project will be built in its entirety and will not be broken down into multiple phases.

C.7. Detailed Construction Cost Estimate

Show quantities, unit prices, and total costs and provide a basis for the determination of construction contingencies. The total of this estimate should match the construction line item of the SF-424C.

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS

Assumptions

All construction within existing rights of way
 24" minimum depth
 Quantity 2 2" HDPE conduit
 Straight splices every 5,000 lineal ft of fiber
 Assumes no rock adder
 Pricing include restoration & maintenance of traffic

	Labor	Price	Unit	Quantity	New
1	Directional Bore 2 2" Conduits	\$ 15.40	Ft	105,190	\$ 1,619,926
2	Engineering Design	\$ 0.86	Ft	105,190	\$ 90,463
3	Furnish & Install Muletape in New duct	\$ 0.25	Ft	105,190	\$ 26,298
4	Install #12 Tracer wire	\$ 0.25	Ft	105,190	\$ 26,298
5	Install Fiber Cable in Duct - Including All Slack	\$ 1.00	Ft	112,690	\$ 112,690
6	Remove & Restore Concrete	\$ 18.00	Sq Ft	1,052	\$ 18,934
7	Install Handhole	\$ 300.00	Each	150	\$ 45,000
8	Install New Splice Case & Prep Cable	\$ 250.00	Ea	18	\$ 4,500
9	Ground Splice Case	\$ 150.00	Ea	18	\$ 2,700
10	Prep Cable in Panel	\$ 250.00	Ea	3	\$ 750
11	Splice Fibers	\$ 20.00	Ea	14,366	\$ 287,325
12	Install Loaded 4u Panel	\$ 250.00	Ea	3	\$ 750
13	Terminate Fibers	\$ 25.00	Ea	288	\$ 7,200
14	Test Network	\$ 2,500.00	All	1	\$ 2,500
15	Install Marker Post	\$ 35.00	Ea	113	\$ 3,938
16	Install Marker Post with Test Station	\$ 50.00	Ea	38	\$ 1,875
			Labor Subtotal		\$ 2,251,146

	Material	Price	Unit	Quantity	
18	Mule tape	\$ 0.05	Ft	105,190	\$ 5,260
19	432 Count Fiber	\$ 2.30	Ft	112,690	\$ 259,187
20	Splice Trays	\$ 26.00	Ea	599	\$ 15,563
21	Splice Cases	\$ 550.00	Ea	18	\$ 9,900
22	Handholes	\$ 550.00	Ea	150	\$ 82,500
23	#12 Tracer Wire	\$ 0.35	Ft	105,190	\$ 36,817
24	Ground Rods	\$ 25.00	Ea	18	\$ 450
25	Marker Post	\$ 45.00	Ea	113	\$ 5,063
26	Marker Post with Test Station	\$ 65.00	Ea	38	\$ 2,438
27	2" HDPE Pipe	\$ 1.51	Ft	210,380	\$ 317,674
28	4u Fiber Panels - Loaded	\$ 4,668.00	Ea	3	\$ 14,004
			Material Subtotal		\$ 748,854

			Total		\$ 3,000,000

C.8. Real Property Acquisition

If the budget includes costs for acquisition of real property, include a current fair market value appraisal completed by a certified appraiser for the property to be purchased.

No property acquisition is anticipated as a part of this project.

C.9. Permits Required

Identify all permits required; include the timeline to obtain the permits and discuss how the permitting relates to the overall project schedule. If the project crosses a railroad right-of-way or is within a railroad right-of way, explain any permitting or approvals that may be required from the railroad or other authority and the timeframe for obtaining these permits or approvals.

Permit Authority	Timeline to Obtain Permit	Impact to Project Schedule
City of Ann Arbor Right-of-Way Permit	60 Days	On completion of design and procurement of construction contractor. No impact to schedule.
City of Ypsilanti Right-of-Way Permit	60 Days	On completion of design and procurement of construction contractor. No impact to schedule.
Washtenaw County Right-of-Way Permit	90 Days	On completion of design and procurement of construction contractor. No impact to schedule.
Michigan Department of Transportation Right-of-Way Permit	90 Days	On completion of design and procurement of construction contractor. No impact to schedule.
Willow Run Airport Authority Approval	90 Days	No permit required. Approval letter from Authority. No impact to schedule.

C.10. Project Schedule

This schedule should agree with the project schedule outlined in the ED-900. Include the number of months for each of the following:

		Month #																							
WBS	Task	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
	1 Engineering Design Start	■																							
	2 30% Design Completion		■																						
	3 60% Design Completion			■	■																				
	4 90% Design Completion					■																			
	5 100% Design Completion, Bid Documents						■	■																	
	6 Permitting							■	■	■															
	7 Construction Procurement Bid Period								■	■															
	8 RFB Award and Contracting										■	■													
	9 Contractor Mobilization											■													
	10 Construction												■	■	■	■	■	■	■	■	■	■	■	■	■
	11 Certification, Punch List and Close Out																							■	■

C.11. Overall Project Budget Breakdown

For each “cost classifications” line item that the applicant indicates will be included in the project budget on Form SF-424C, the applicant must provide a breakdown of the proposed project costs and tasks that is consistent with the detailed construction cost estimate for the project provided in the PER.

1. Administrative and legal expenses - \$0
2. Land, structures, rights-of-way, appraisals, etc - \$0
3. Relocation expenses and payments - \$0
4. Architectural and engineering fees - \$90,463

105,190 feet of engineering fees for underground engineering, including low-level design, fielding, utility mapping, construction prints and as-builts.

5. **Other architectural and engineering fees - \$0**

6. **Project inspection fees - \$0**

7. **Site work - \$0**

8. **Demolition and removal - \$0**

9. **Construction - \$2,909,537**

Underground construction of (2) 2" HDPE SDR11 duct. Within 1 2" duct, a single 432-count loose-tube fiber-optic cable will be installed and spliced. Construction includes installation of 150 composite tier 22 underground vaults sized at 30" by 48" by 36" within existing rights of way.

10. **Equipment - \$0**

11. **Miscellaneous - \$0**

12. **Subtotal - \$3,000,000**

13. **Contingencies - \$0**

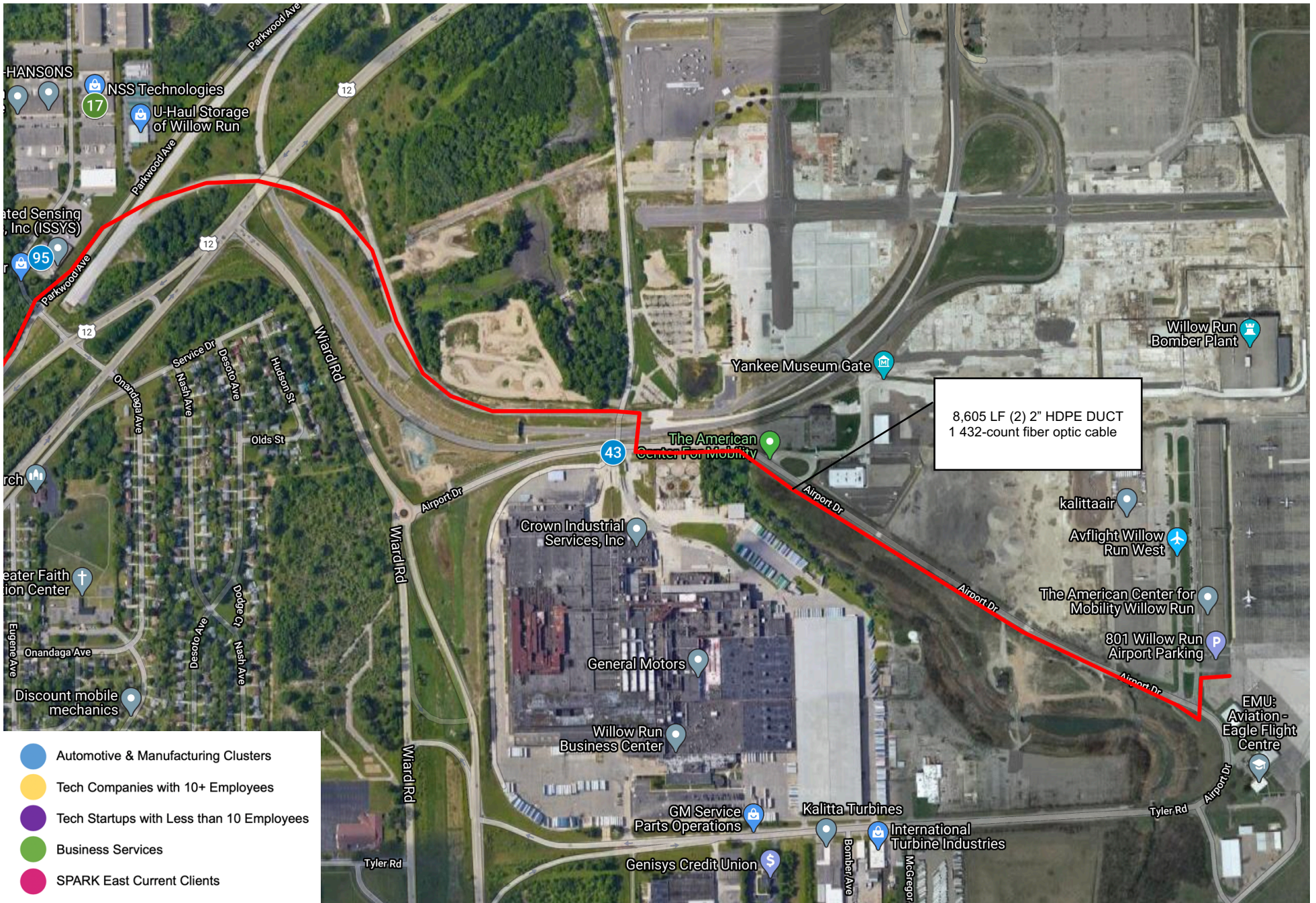
14. **Subtotal - \$3,000,000**

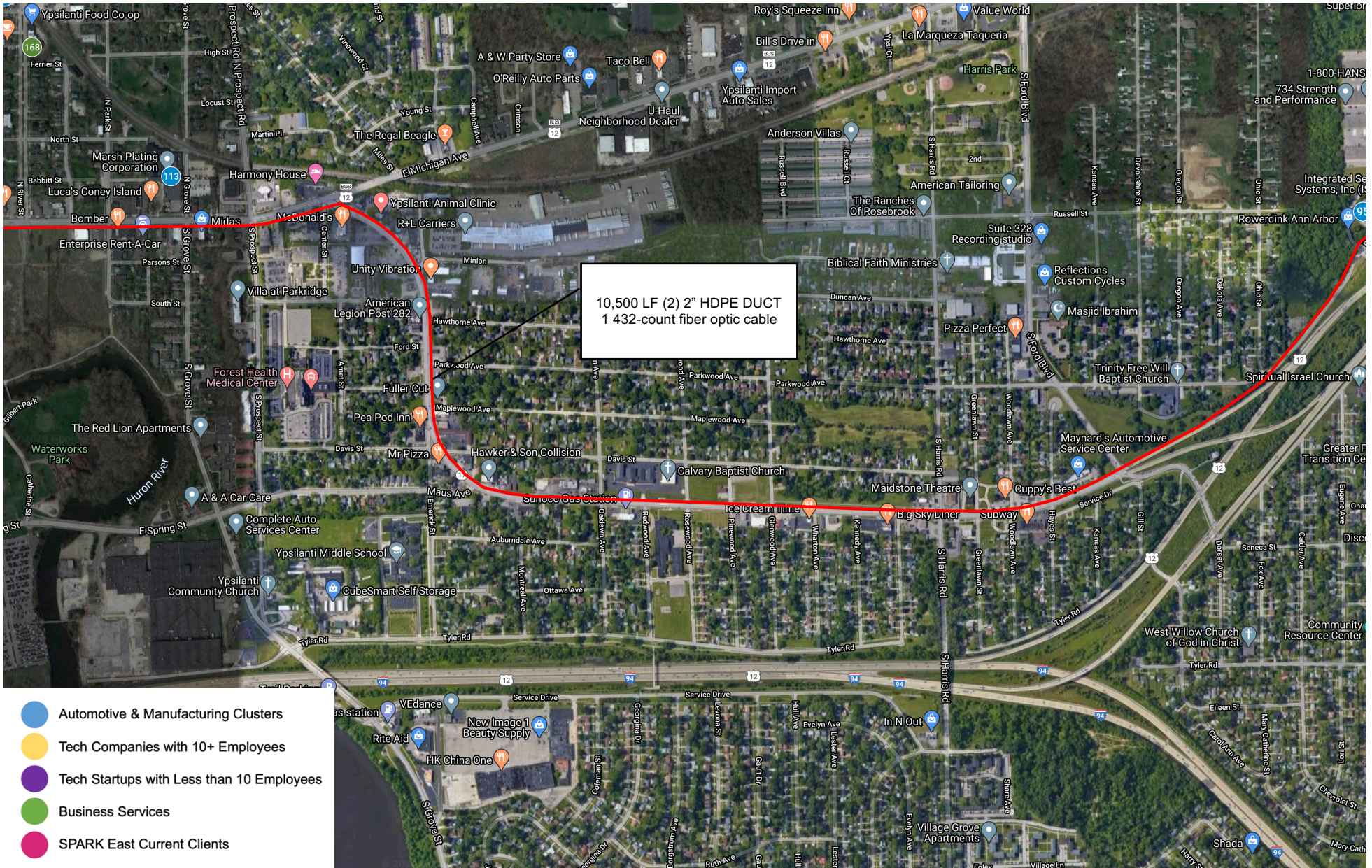
15. **Project (program) Income - \$0.00**

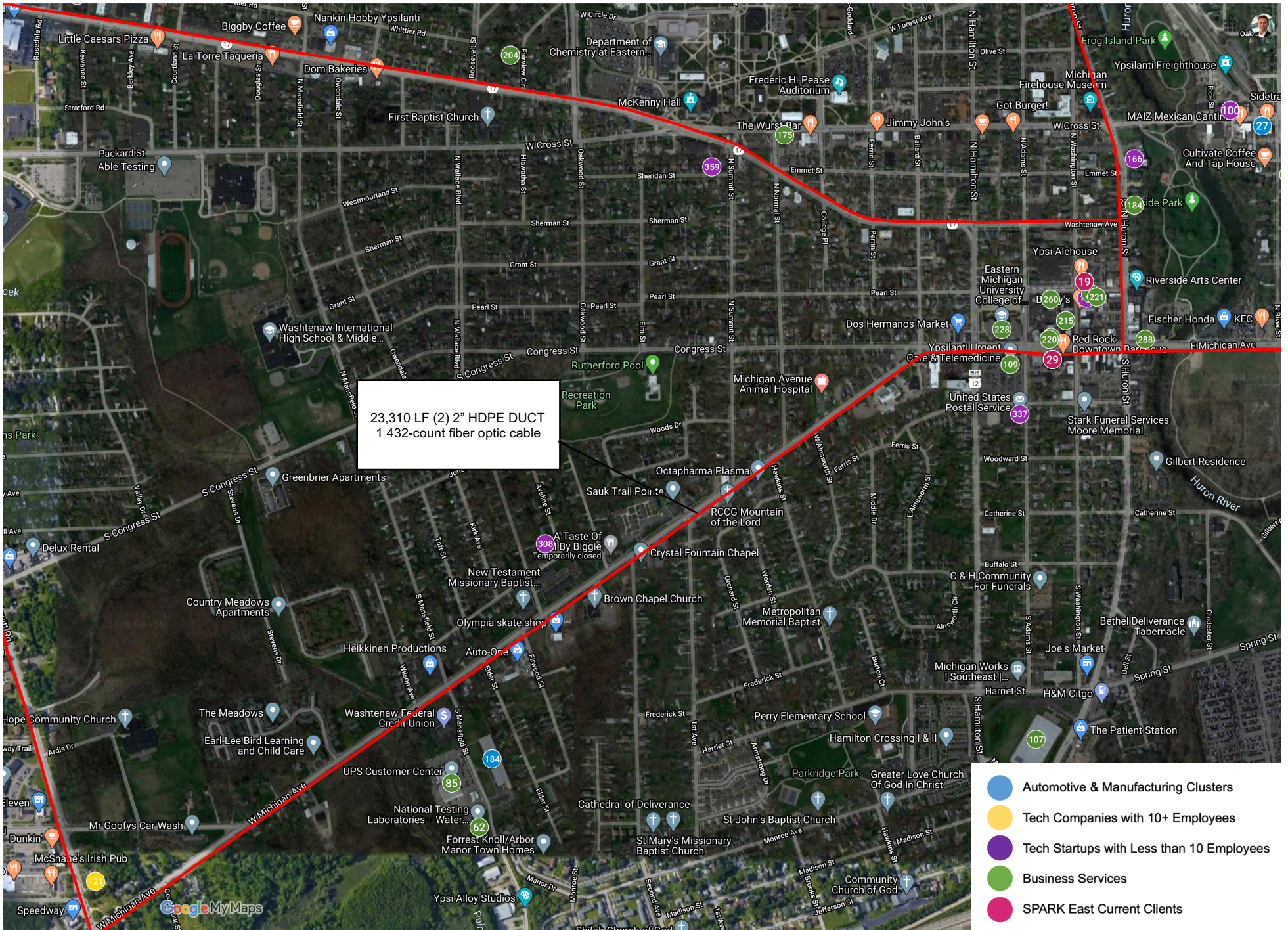
16. **Total Project Costs - \$3,000,000**

APPENDIX

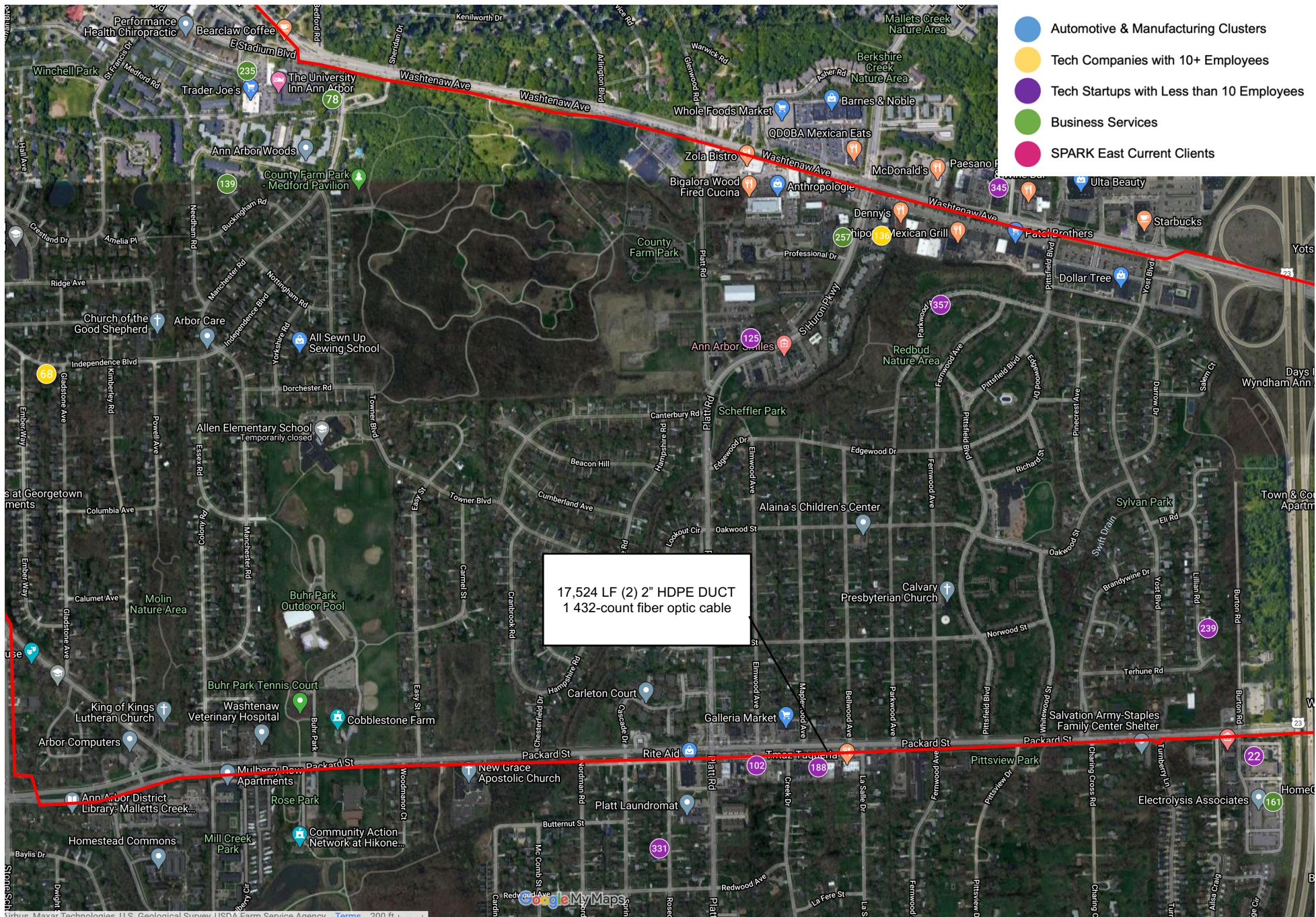
A: High-Level Drawings & Location of Project Beneficiaries













**ATTACHMENT B
LEGAL STATUS OF OFFEROR**

(The Respondent shall fill out the provision and strike out the remaining ones.)

The Respondent is:

- A corporation organized and doing business under the laws of the state of _____, for whom _____ bearing the office title of _____, whose signature is affixed to this proposal, is authorized to execute contracts on behalf of respondent.*

*If not incorporated in Michigan, please attach the corporation's Certificate of Authority

- A limited liability company doing business under the laws of the State of _____, whom _____ bearing the title of _____ whose signature is affixed to this proposal, is authorized to execute contract on behalf of the LLC.
- A partnership organized under the laws of the State of _____ and _____ filed with the County of _____, whose members are (attach list including street and mailing address for each.)
- An individual, whose signature with address, is affixed to this RFP.

Respondent has examined the basic requirements of this RFP and its scope of services, including all Addendum (if applicable) and hereby agrees to offer the services as specified in the RFP.

_____, Date: _____,
Signature

(Print) Name _____ Title _____

Firm: _____

Address: _____

Contact Phone _____ Fax _____

Email _____

ATTACHMENT C
CITY OF ANN ARBOR DECLARATION OF COMPLIANCE

Non-Discrimination Ordinance

The "non discrimination by city contractors" provision of the City of Ann Arbor Non-Discrimination Ordinance (Ann Arbor City Code Chapter 112, Section 9:158) requires all contractors proposing to do business with the City to treat employees in a manner which provides equal employment opportunity and does not discriminate against any of their employees, any City employee working with them, or any applicant for employment on the basis of actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight. It also requires that the contractors include a similar provision in all subcontracts that they execute for City work or programs.

In addition the City Non-Discrimination Ordinance requires that all contractors proposing to do business with the City of Ann Arbor must satisfy the contract compliance administrative policy adopted by the City Administrator. A copy of that policy may be obtained from the Purchasing Manager

The Contractor agrees:

- (a) To comply with the terms of the City of Ann Arbor's Non-Discrimination Ordinance and contract compliance administrative policy.
- (b) To post the City of Ann Arbor's Non-Discrimination Ordinance Notice in every work place or other location in which employees or other persons are contracted to provide services under a contract with the City.
- (c) To provide documentation within the specified time frame in connection with any workforce verification, compliance review or complaint investigation.
- (d) To permit access to employees and work sites to City representatives for the purposes of monitoring compliance, or investigating complaints of non-compliance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services in accordance with the terms of the Ann Arbor Non-Discrimination Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Non-Discrimination Ordinance, obligates the Contractor to those terms and acknowledges that if his/her employer is found to be in violation of Ordinance it may be subject to civil penalties and termination of the awarded contract.

Company Name

Signature of Authorized Representative

Date

Print Name and Title

Address, City, State, Zip

Phone/Email address

Questions about the Notice or the City Administrative Policy, Please contact:

Procurement Office of the City of Ann Arbor
(734) 794-6500

Revised 3/31/15 Rev. 0

NDO-2

**ATTACHMENT D
CITY OF ANN ARBOR
LIVING WAGE ORDINANCE DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that an employer who is (a) a contractor providing services to or for the City for a value greater than \$10,000 for any twelve-month contract term, or (b) a recipient of federal, state, or local grant funding administered by the City for a value greater than \$10,000, or (c) a recipient of financial assistance awarded by the City for a value greater than \$10,000, shall pay its employees a prescribed minimum level of compensation (i.e., Living Wage) for the time those employees perform work on the contract or in connection with the grant or financial assistance. The Living Wage must be paid to these employees for the length of the contract/program.

<i>Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from compliance with the Living Wage Ordinance. If this exemption applies to your company/non-profit agency please check here ☐ No. of employees _____</i>
--

The Contractor or Grantee agrees:

- (a) To pay each of its employees whose wage level is not required to comply with federal, state or local prevailing wage law, for work covered or funded by a contract with or grant from the City, no less than the Living Wage. The current Living Wage is defined as \$14.05/hour for those employers that provide employee health care (as defined in the Ordinance at Section 1:815 Sec. 1 (a)), or no less than \$15.66/hour for those employers that do not provide health care. The Contractor or Grantor understands that the Living Wage is adjusted and established annually on April 30 in accordance with the Ordinance and covered employers shall be required to pay the adjusted amount thereafter to be in compliance with Section 1:815(3).

Check the applicable box below which applies to your workforce

- | | |
|--------------------------|---|
| ☐ | Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage without health benefits |
| ☐ | Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage with health benefits |

- (b) To post a notice approved by the City regarding the applicability of the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- (c) To provide to the City payroll records or other documentation within ten (10) business days from the receipt of a request by the City.
- (d) To permit access to work sites to City representatives for the purposes of monitoring compliance and investigating complaints or non-compliance.
- (e) To take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee covered by the Living Wage Ordinance or any person contracted for employment and covered by the Living Wage Ordinance in order to pay the living wage required by the Living Wage Ordinance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services or agrees to accept financial assistance in accordance with the terms of the Living Wage Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Living Wage Ordinance, obligates the Employer/Grantee to those terms and acknowledges that if his/her employer is found to be in violation of Ordinance it may be subject to civil penalties and termination of the awarded contract or grant of financial assistance.

Company Name

Street Address

Signature of Authorized Representative

Date

City, State, Zip

Print Name and Title

Phone/Email address



ATTACHMENT E

VENDOR CONFLICT OF INTEREST DISCLOSURE FORM

All vendors interested in conducting business with the City of Ann Arbor must complete and return the Vendor Conflict of Interest Disclosure Form in order to be eligible to be awarded a contract. Please note that all vendors are subject to comply with the City of Ann Arbor's conflict of interest policies as stated within the certification section below.

If a vendor has a relationship with a City of Ann Arbor official or employee, an immediate family member of a City of Ann Arbor official or employee, the vendor shall disclose the information required below.

1. No City official or employee or City employee's immediate family member has an ownership interest in vendor's company or is deriving personal financial gain from this contract.
2. No retired or separated City official or employee who has been retired or separated from the City for less than one (1) year has an ownership interest in vendor's Company.
3. No City employee is contemporaneously employed or prospectively to be employed with the vendor.
4. Vendor hereby declares it has not and will not provide gifts or hospitality of any dollar value or any other gratuities to any City employee or elected official to obtain or maintain a contract.
5. Please note any exceptions below:

Conflict of Interest Disclosure*	
Name of City of Ann Arbor employees, elected officials or immediate family members with whom there may be a potential conflict of interest.	☐ Relationship to employee
	☐ Interest in vendor's company
	☐ Other (please describe in box below)

*Disclosing a potential conflict of interest does not disqualify vendors. In the event vendors do not disclose potential conflicts of interest and they are detected by the City, vendor will be exempt from doing business with the City.

I certify that this Conflict of Interest Disclosure has been examined by me and that its contents are true and correct to my knowledge and belief and I have the authority to so certify on behalf of the Vendor by my signature below:		
Vendor Name		Vendor Phone Number
Signature of Vendor Authorized Representative	Date	Printed Name of Vendor Authorized Representative

ATTACHMENT F
CITY OF ANN ARBOR NON-DISCRIMINATION ORDINANCE

Relevant provisions of Chapter 112, Nondiscrimination, of the Ann Arbor City Code are included below.
You can review the entire ordinance at www.a2gov.org/humanrights.

Intent: It is the intent of the city that no individual be denied equal protection of the laws; nor shall any individual be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight.

Discriminatory Employment Practices: No person shall discriminate in the hire, employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any individual. No person shall discriminate in limiting membership, conditions of membership or termination of membership in any labor union or apprenticeship program.

Discriminatory Effects: No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight for an individual to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a necessity does not arise due to a mere inconvenience or because of suspected objection to such a person by neighbors, customers or other persons.

Nondiscrimination by City Contractors: All contractors proposing to do business with the City of Ann Arbor shall satisfy the contract compliance administrative policy adopted by the City Administrator in accordance with the guidelines of this section. All city contractors shall ensure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon any classification protected by this chapter. All contractors shall agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of any applicable protected classification. All contractors shall be required to post a copy of Ann Arbor's Non-Discrimination Ordinance at all work locations where its employees provide services under a contract with the city.

Complaint Procedure: If any individual believes there has been a violation of this chapter, he/she may file a complaint with the City's Human Rights Commission. The complaint must be filed within 180 calendar days from the date of the individual's knowledge of the allegedly discriminatory action or 180 calendar days from the date when the individual should have known of the allegedly discriminatory action. A complaint that is not filed within this timeframe cannot be considered by the Human Rights Commission. To file a complaint, first complete the complaint form, which is available at www.a2gov.org/humanrights. Then submit it to the Human Rights Commission by e-mail (hrc@a2gov.org), by mail (Ann Arbor Human Rights Commission, PO Box 8647, Ann Arbor, MI 48107), or in person (City Clerk's Office). For further information, please call the commission at 734-794-6141 or e-mail the commission at hrc@a2gov.org.

Private Actions For Damages or Injunctive Relief: To the extent allowed by law, an individual who is the victim of discriminatory action in violation of this chapter may bring a civil action for appropriate injunctive relief or damages or both against the person(s) who acted in violation of this chapter.

**THIS IS AN OFFICIAL GOVERNMENT NOTICE AND
MUST BE DISPLAYED WHERE EMPLOYEES CAN READILY SEE IT.**

ATTACHMENT G

CITY OF ANN ARBOR LIVING WAGE ORDINANCE

RATE EFFECTIVE APRIL 30, 2021 - ENDING APRIL 29, 2022

\$14.05 per hour

If the employer provides health care benefits*

\$15.66 per hour

If the employer does **NOT** provide health care benefits*

Employers providing services to or for the City of Ann Arbor or recipients of grants or financial assistance from the City of Ann Arbor for a value of more than \$10,000 in a twelve-month period of time must pay those employees performing work on a City of Ann Arbor contract or grant, the above living wage.

ENFORCEMENT

The City of Ann Arbor may recover back wages either administratively or through court action for the employees that have been underpaid in violation of the law. Persons denied payment of the living wage have the right to bring a civil action for damages in addition to any action taken by the City.

Violation of this Ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ann Arbor has the right to modify, terminate, cancel or suspend a contract in the event of a violation of the Ordinance.

* Health Care benefits include those paid for by the employer or making an employer contribution toward the purchase of health care. The employee contribution must not exceed \$.50 an hour for an average work week; and the employer cost or contribution must equal no less than \$1/hr for the average work week.

The Law Requires Employers to Display This Poster Where Employees Can Readily See It.

**For Additional Information or to File a Complaint contact
Colin Spencer at 734/794-6500 or cspencer@a2gov.org**



**UNITED STATES DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT ADMINISTRATION**

SUMMARY OF EDA CONSTRUCTION STANDARDS

A REFERENCE TOOL FOR CONSTRUCTION INVESTMENTS
MADE UNDER SECTIONS 201 OR 209 OF THE
PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965,
AS AMENDED (42 U.S.C. § 3121 *ET SEQ.*)

JULY 2018

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I. PURPOSE AND SCOPE OF THIS SUMMARY

A. PURPOSE

1. This “*Summary of EDA Construction Standards*” (hereinafter referred to as “Summary”) describes the procedures for compliance, reporting, and record-keeping, and administrative requirements that apply to construction investments made by the Economic Development Administration (“EDA”) under sections 201 or 209 (42 U.S.C. §§ 3141 and 3149) of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 3121 *et seq.*) (“PWEDA”).
2. *Terms and Conditions*. Form CD-450, “*Financial Assistance Award*,” (the “Award”), executed by EDA and the Recipient, together with the EDA-approved project budget and scope of work, standard terms and conditions, special award conditions, and all applicable federal statutory and regulatory requirements as incorporated by reference, constitute the complete requirements, hereinafter referred to as the “Terms and Conditions,” applicable to the EDA investment. This Summary is designed to help clarify these requirements. In the event that any term or provision in this Summary conflicts with or is inconsistent with any provision contained in the Terms and Conditions, the provisions of the Terms and Conditions are controlling.

B. SCOPE

1. This Summary applies to all Awards for construction projects and is based on the Office of Management and Budget’s (“OMB”) administrative and programmatic requirements for federal grants as set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and in EDA’s regulations implementing PWEDA. These requirements are published in the *Code of Federal Regulations* (“C.F.R.”), each as amended from time to time:
 - (a) 13 C.F.R. chapter III (*Economic Development Administration, Department of Commerce*); and
 - (b) 2 C.F.R. part 200 (*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*).
2. This Summary supplements the requirements set out in PWEDA, EDA’s regulations at 13 C.F.R. chapter III, the Terms and Conditions of the Award, 2 C.F.R. part 200 and the applicable requirements and authorities listed in the Appendix to this Summary and the hyperlinks set out therein (*see* section IX.). This Summary should be used as a reference tool to implement various requirements that apply to EDA construction investments made under sections 201 or 209 of PWEDA (42 U.S.C. §§ 3141 and 3149). This Summary is not a comprehensive source of information. In addition to PWEDA, a list of primary sources of legal requirements is set out above in section I.B.1.

II. DEPARTMENT OF COMMERCE AND EDA POLICIES

- A.** As a federal agency, EDA is obligated to promulgate regulations and establish policies and procedures applicable to Recipients of EDA investments to:
1. Ensure compliance with applicable federal requirements;
 2. Safeguard the public's interest in the grant assets; and
 3. Promote the effective use of grant funds in accomplishing the purpose(s) for which they were awarded.
- B.** EDA or the Department of Commerce (the "Department" or "Departmental") may issue changes from time to time to EDA's regulations and other requirements and policies that apply to the Award. Such changes may upon occasion increase administrative or programmatic flexibility in administering the Award. The implementation of any such regulatory, administrative or programmatic change in administering the Award must have prior EDA written approval.
- C.** EDA's policy is to administer all Awards uniformly; however, there may be special circumstances that warrant a variance. To accommodate these circumstances and to encourage innovative and creative ways to address economic development problems, EDA may consider requests for variances to the procedures set out in this Summary if they do not conflict with applicable federal statutory and regulatory requirements, are consistent with the goals of EDA's programs, and make sound economic and financial sense.

III. REQUIREMENTS APPLICABLE TO EDA INVESTMENTS

A. GRANT RECIPIENT AS TRUSTEE

The Recipient of an EDA investment holds grant funds and any EDA-funded project property in trust for the purpose(s) for which the Award was made. The Recipient's obligation to the Federal government continues for the estimated useful life of the project, as determined by EDA, during which EDA retains an undivided equitable reversionary interest (the "Federal Interest") in the property improved, in whole or in part, with the EDA investment. See 13 C.F.R. § 314.2; 2 C.F.R. §§ 200.41, 200.316.

If EDA determines that the Recipient fails or has failed to meet this obligation, the agency may exercise any rights or remedies with respect to its Federal Interest in the project. However, EDA's forbearance in exercising any right or remedy in connection with the Federal Interest does not constitute a waiver thereof.

B. THE RECIPIENT'S RESPONSIBILITIES

1. The Recipient is responsible for complying with all federal laws (and the regulations issued thereunder), federal, Departmental and EDA policies, Executive Orders, and 2 C.F.R. part 200, as referenced in the Terms and Conditions, each as may be amended from time to time. These statutes, regulations, policies, Executive Orders and 2 C.F.R. part 200 may include administrative and audit requirements, federal cost principles, programmatic requirements, financial requirements, and property management requirements. See 13 C.F.R. § 302.6. The Recipient is responsible for the design, bidding, construction, and operation of the project to ensure compliance with all grant requirements, including those set out at 13 C.F.R. part 305.

2. In order to facilitate timely implementation, EDA may accept the Recipient's certification, accompanied by evidence satisfactory to EDA, that it meets the requirements for receiving the Award and that it will comply with its Terms and Conditions. *See* 13 C.F.R. § 302.15; 2 C.F.R. § 200.208. EDA also may require the Recipient submit specific certifications for critical issues, such as major procurement and costs claimed in requests for disbursement of grant funds. EDA will monitor project progress and compliance with the Terms and Conditions through the:
 - (a) Recipient's written reports;
 - (b) Review of the Recipient's records during EDA visits to the project site;
 - (c) Department's Office of Inspector General audits; and
 - (d) Single or program-specific audit conducted in accordance with Subpart F of 2 C.F.R. part 200 and the related *Compliance Supplements*. *See* section VIII.A. of this Summary.
3. During the construction period, the Recipient is responsible for:
 - (a) Monitoring project progress and reporting progress to EDA;
 - (b) Providing for adequate construction inspection;
 - (c) Paying costs incurred for the project promptly; and
 - (d) Monitoring contractors' compliance with applicable local, State and federal requirements.
4. After construction is completed, the Recipient is responsible for submitting close-out documentation and properly administering, operating and maintaining the project for its estimated useful life, as determined by EDA and as set forth in the Terms and Conditions. *See* 13 C.F.R. § 302.12; 2 C.F.R. §§ 200.316, 200.343-200.344.
5. Failure to satisfy any Term or Condition may result in disallowance of costs, or suspension or termination of the Award and recovery of grant funds. In addition, such failure may have a negative impact on the Recipient's ability to receive future funding from the Department. *See* 13 C.F.R. § 302.18; 2 C.F.R. §§ 200.213, 200.338-200.342. In particular, the project development time schedule, a Term of the Award, can be extended only through the Recipient's written request for an amendment to the Award and written approval by EDA. *See* 13 C.F.R. § 302.7. The Terms and Conditions of the Award place the Recipient on notice that the grant may be suspended for not proceeding in accordance with the EDA-approved time schedule set out in the Award. No disbursement of EDA funds is permitted when a project has exceeded the EDA-approved time schedule, unless EDA has given written approval to a time schedule extension. *See* 13 C.F.R. § 305.9 regarding project phasing and investment disbursement.

C. EMINENT DOMAIN

In making a discretionary award for a construction project, EDA considers the policy on eminent domain set out in Executive Order 13406, "*Protecting the Property Rights of the American People*." The Terms and Conditions of the Award include appropriate provisions to ensure that the Recipient has agreed:

1. Not to use any power of eminent domain available to the Recipient (including the commencement of eminent domain proceedings) for use in connection with the project for the purpose of advancing the economic interests of private parties;
2. Not to accept title to land, easements or other interests in land acquired by the use of any power of eminent domain for use in connection with the project for such purposes; and

3. Any use of the power of eminent domain to acquire land, easements, or other interests in land, whether by the Recipient or any other entity that has the power of eminent domain, in connection with the project without prior written consent of EDA is an unauthorized use of the project. If the Recipient puts the project to an unauthorized use, the Recipient will be required to compensate EDA for its fair share in accordance with 13 C.F.R. §§ 314.4 and 314.5.

D. RECORD-KEEPING REQUIREMENTS

The Recipient is responsible for maintaining records that document compliance with the Terms and Conditions of the Award. At a minimum, the Recipient's records must contain documentation that fully discloses:

1. The amount and disposition of the EDA investment assistance;
2. All project expenditures and procurement actions;
3. The total cost of the project that the Award funds;
4. The amount and nature of the portion of project costs provided by non-EDA sources;
5. Contractor compliance with applicable federal requirements; and
6. Such other records as EDA determines will facilitate an effective audit.

The Recipient is responsible for retaining records for the time frame specified in the Terms and Conditions. See 13 C.F.R. § 302.14. See also 2 C.F.R. § 200.333.

E. THE FINANCIAL ASSISTANCE AWARD

The Recipient should pay particular attention to the following provisions of the Award:

1. *Description of Project.* The description of the project in the Award, together with more detailed information provided in the Award application, determines and defines the scope(s) of work to be funded under the Award.
2. *Federal Requirements.* The listed federal requirements describe applicable administrative or programmatic obligations for which the Recipient is responsible. Critical documents are listed in section IX. (Appendix) of this Summary. These publications provide important information on requirements regarding procurement, record-keeping, eligible project costs and other administrative or programmatic issues.
3. *Standard Terms and Conditions.* The standard terms and conditions are applicable to all EDA-assisted construction projects.
4. *Special Award Conditions.* The special award conditions may contain conditions that must be satisfied prior to advertisement for bids, start of construction, or disbursement of Award funds, as well as conditions unique to the Award that are ongoing for the estimated useful life of the project.

F. FINANCIAL REPORTING

1. *Semiannual financial reports.* Any Recipient whose Award has not been fully disbursed is required to submit a "Federal Financial Report" (Form SF-425 or any successor form) to EDA semiannually to report on the status of unreimbursed obligations. This report will provide information on the amount of allowable project expenses that have been incurred, but not claimed for reimbursement by the Recipient. The first report shall be as of March 31 of each year and shall be submitted to EDA no later than April 30 of each year, and the second report shall be of September 30 of each year and shall be submitted to EDA no later than October 30 of each year. Instructions for completing and submitting Form SF-425 will be furnished to the Recipient at least sixty (60) days before the report is due. While EDA generally does not advance funds, when the agency does so, the Recipient must submit Form SF-425 within fifteen (15) business days following the end of each quarter for an award under \$1 million, fifteen

- (15) business days following the end of each month for an award totaling \$1 million or more, or as otherwise specified in a special award condition.
2. *Final financial report.* The Recipient must submit a final financial report using Form SF-425 within ninety (90) days of the expiration date of the Award (or from the date the Recipient accepts the project from the contractor, whichever occurs earlier).
 3. *Noncompliance with financial reporting requirements.* Noncompliance with these requirements will result in appropriate enforcement action under this Award, including but not limited to suspension of Award payments or disallowance of costs. Financial reports are to be submitted to the Project Officer.

G. MONITORING AND REPORTING PROJECT PROGRESS

1. Quarterly Project Progress (Performance) Reports.

- (a) Quarterly Project Progress Reports must be submitted in accordance with the procedures set out in 2 C.F.R. § 200.328, as applicable, and as indicated below. Failure to submit required reports in a timely manner may result in the withholding of payments under the Award; deferral of processing of new awards, amendments or supplemental funding pending the receipt of the overdue report(s); or the establishment of an account receivable for the difference between the total federal share of outlays last reported and the amount disbursed. See 13 C.F.R. § 302.18.
- (b) Unless otherwise specified in the Award, the Quarterly Project Progress Reports will contain the following information for each project program, function, or activity:
 - (i) A comparison of planned and actual accomplishments according to the timetable or list of project objectives in the Award;
 - (ii) An explanation of any delays or failures to meet the project timetable or project goals; and
 - (iii) Any other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
- (c) Quarterly Project Progress Reports shall be submitted for each calendar quarter to the Project Officer. Each project progress report must be submitted in accordance with the deadlines outlined in the special award conditions, or, where not otherwise specified, project progress reports will be due on a quarterly basis not later than January 31, April 30, July 31, and October 31 for the immediate previous quarter. The final Project Progress Report shall be submitted to EDA no more than 90 days after the project closeout date. This reporting requirement begins with the Recipient's acceptance of the Award and ends when EDA approves project closeout.

The Recipient shall submit Quarterly Project Progress Reports to the Project Officer electronically, unless otherwise specified in the Special Award Conditions.

Interim performance reporting. The Recipient must report any event that will or may have a significant impact upon the project, including delays or adverse conditions that materially may affect the ability of the Recipient to attain project objectives within established time periods or meet the project development time schedule. The recipient must disclose such problems to the Project Officer in the most time-expedient way

possible and then, if the initial report was not made in writing, report the event to the Project Officer in writing. Such a report shall include a statement of the event or issue, a statement of the course of action taken or contemplated to resolve the matter, and any federal assistance needed to resolve the situation. If budget changes are required, the Recipient must submit a written budget revision request. See 2 C.F.R. § 200.308(g). Any changes made to the project without EDA's prior approval are made at the Recipient's risk of nonpayment of costs, suspension, termination, or other applicable EDA action. See 13 C.F.R. § 302.7.

2. *Government Performance and Results Act reporting.* In addition to Quarterly Project Progress Reports, EDA may require the Recipient to report on project performance beyond the project closeout date for Government Performance and Results Act ("GPRA") purposes. In no case shall the Recipient be required to submit any report more than ten years after the project closeout date. Data used by the Recipient in preparing reports shall be accurate and, whenever possible, from independent sources. See 13 C.F.R. § 302.16.
3. *Reporting on real property.* The Recipient must submit reports (using Form SF- 429 "Real Property Status Report" or any successor form) at least annually, on the status of real property in which EDA retains an interest, unless the Federal interest in the real property extends 15 years or longer. When EDA's interest extends for a period of 15 years or more, EDA, at its option, may require the Recipient to report at various multi-year frequencies (*e.g.*, every two years or every three years, not to exceed a five-year reporting period; or annual reporting for the first three years of the Award and thereafter every five years). See 2 C.F.R. § 200.329.

IV. PRE-CONSTRUCTION REQUIREMENTS

A. ENVIRONMENTAL COMPLIANCE

Each Recipient must comply with all environmental standards and shall identify to EDA any impact a proposed project may have on the environment. In some cases, Award funds can be withheld by EDA under a special award condition requiring the Recipient to submit additional environmental compliance information sufficient to enable EDA to make an assessment on any impacts that a project may have on the environment.

EDA undertakes environmental reviews of projects in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 *et seq.*, as implemented under 40 C.F.R. parts 1500-1508) ("NEPA"), and all other federal environmental statutes, regulations and Executive Orders, as listed in the Terms and Conditions of the Award. These authorities include the implementing regulations of NEPA, which require EDA to provide public notice of the availability of project-specific environmental documents, such as environmental impact statements, environmental assessments, findings of no significant impact, and records of decision, to the affected or interested public, as specified in 40 C.F.R. § 1506.6(b). The Recipient must pay special attention to and comply with any special environmental conditions in the Award. See 13 C.F.R. § 302.1.

B. CIVIL RIGHTS COMPLIANCE

In accordance with the following authorities, discrimination is prohibited by a Recipient or "Other Party" (as defined in 13 C.F.R. § 302.20(b)) with respect to a project receiving EDA investment assistance under PWEDA:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and the Department's implementing regulations at 15 C.F.R. part 8, which prohibit discrimination on the grounds of race, color, or national origin under programs or activities receiving federal financial assistance;
2. Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*) prohibiting discrimination on the basis of sex under federally-assisted education programs or activities;
3. Pub. L. No. 92-65, 42 U.S.C. § 3123 (proscribing discrimination on the basis of sex in EDA assistance provided under PWEDA) and Pub. L. No. 94-369, 42 U.S.C. § 6709 (proscribing discrimination on the basis of sex under the Local Public Works Program), and the Department's implementing regulations at 15 C.F.R. §§ 8.7-8.15;
4. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Department's implementing regulations at 15 C.F.R. part 8b, which prohibit discrimination on the basis of handicap under any program or activity receiving or benefiting from federal assistance;
5. The Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), and the Department's implementing regulations at 15 C.F.R. part 20, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance;
6. The Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*) prohibiting discrimination on the basis of disability under programs, activities and services provided or made available by State and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation; and other federal statutes, regulations and Executive Orders, as applicable. *See generally* 13 C.F.R. § 302.20.

Consistent with 2 CFR § 200.321, the Recipient and any subrecipient must take all necessary affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

C. START OF CONSTRUCTION

1. *Early construction starts.* The Recipient shall make a written request to EDA for early construction start permission (that is, after the date of Award, but before EDA gives formal approval for construction to commence). For project costs to be eligible for EDA reimbursement, EDA must determine that the award of all contracts necessary for design and construction of the project facilities is in compliance with the Terms and Conditions. If construction commences prior to EDA's determination, the Recipient proceeds at its own risk until EDA's review and concurrence. *See* 13 C.F.R. § 305.11.
2. *Delayed construction starts.* If significant construction (as determined by EDA) is not commenced within two years of the Award date or by the date estimated for start of construction in the grant Award (or the expiration of any extension granted in writing by EDA), whichever is later, the EDA grant will be automatically suspended and may be terminated if EDA determines, after consultation with the Recipient, that construction to completion cannot reasonably be expected to proceed promptly and expeditiously. *See also* sections VII.B. and F. of this Summary.

D. PROJECT MANAGEMENT CONFERENCE

1. Shortly after approval of the Award, EDA may contact the Recipient to arrange a project management conference. The purpose of the project management conference is to explain to the Recipient its post-approval responsibilities for administration of the Award and applicable federal requirements.
2. Whenever practicable, the project management conference should be held when and where appropriate EDA regional office personnel will be available. The Recipient's authorized representative, architect/engineer, attorney and possibly the Recipient's financial representative should attend.

E. ARCHITECT/ENGINEER SERVICES

1. The architect/engineer agreement shall provide for all services required by the Recipient for the planning, design and engineering phases of the project. Appropriate standards or guidance developed by professional organizations, such as the American Consulting Engineers Council ("ACEC"), American Society of Civil Engineers ("ASCE"), National Society of Professional Engineers ("NSPE"), and/or the American Institute of Architects ("AIA"), may be used where the Recipient does not have standard procurement or contracting documents.

The architect/engineer agreement shall cover all services necessary for the successful execution of the project including consultations, surveys, soil investigations, supervision, travel, "as-built" or record drawings, arrow diagram ("CPM/PERT") where applicable, and incidental costs. Regardless of who furnishes the construction inspector, the architect/engineer shall be held responsible for making sufficient visits to the project site to ensure that the work proceeds in accordance with the approved plans and specifications.

2. The Recipient must select the architect/engineer in accordance with the procurement standards set forth in 2 C.F.R. part 200. Unless EDA has approved a different type of award, the compensation to the architect/engineer for basic services must be either a fixed price or a cost reimbursement with an agreed maximum to be eligible for EDA participation. The amount of EDA participation will be based on EDA's determination (subject to audit) that the compensation is reasonable. The "cost-plus-a-percentage-of-cost" and "percentage of construction cost" methods of contracting are specifically prohibited.
3. In addition to other provisions required by the Federal agency or Recipient, in accordance with 2 C.F.R. § 200.326, all contracts made by the Recipient under an Award must contain the applicable provisions set out in Appendix II to 2 C.F.R. part 200, which address various contractual requirements including remedies, termination for cause and convenience, Equal Employment Opportunity, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, rights to inventions, environmental quality, energy efficiency, debarment and suspension, the Byrd Anti-Lobbying Amendment, and procurement of recovered materials. See Appendix II to 2 C.F.R. part 200 for a full explanation of these requirements.

F. SERVICES PERFORMED BY RECIPIENT'S OWN FORCES

The Recipient may have a portion or all of the design, construction, inspection, legal services, or other work or services in connection with the project performed by personnel who are employed by the Recipient either full-time or part-time ("in-house forces"). See 13 C.F.R. § 305.7.

EDA may approve the use of “in-house forces” subject to the following conditions:

1. The services are routinely performed by the Recipient for all construction projects performed by the Recipient;
2. The Recipient has a special skill required for the construction of the project;
3. The Recipient has made all reasonable efforts to obtain a contractor, but has failed to do so because of uncontrollable factors such as the remoteness of the project site or an overabundance of construction work in the region; or
4. The Recipient demonstrates substantial cost savings.

“In-house forces” may be considered an eligible cost for EDA reimbursement if the work or services performed are in conformance with 2 C.F.R. part 200.

G. TRIBAL EMPLOYMENT RIGHTS ORDINANCES

In accordance with Departmental policy, EDA recognizes Tribal Employment Rights Ordinances (“TEROs”), which may provide for preferences in contracting and employment, in connection with its financial assistance awards. Federal awards granted to American Indian and Alaska Native tribal governments generally may provide for preference in contracting, hiring, firing, and the payment of a TERO fee.

The payment of the TERO fee, which supports the tribal employment rights office to administer the preferences, should generally be allowable as an expense that is “necessary and reasonable for the performance of the Federal Award,” as provided under 2 C.F.R. § 200.403.

H. LAND, EASEMENTS AND RIGHTS OF WAY

1. Except as provided in 13 C.F.R. § 314.6(b) or as otherwise authorized by EDA, Recipient-owned property acquired or improved in whole or in part with investment assistance must not be used to secure a mortgage or deed of trust or in any way otherwise encumbered.
2. The Recipient must disclose to EDA all encumbrances. EDA will not accept any encumbrance that interferes with the construction, intended use, operation or maintenance of the project during its estimated useful life. Before advertising for construction bids or at such other time as EDA requires, the Recipient must furnish evidence, satisfactory in form and substance to EDA, that title to real property required for the project is vested in the Recipient and that such rights-of-way, easements, State or local government permits, long-term leases or other items required for the project have been or will be obtained by the Recipient within an acceptable time, as determined by EDA. See 13 C.F.R. § 314.7.

I. RELOCATION ASSISTANCE

The Recipient is subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) (the “Uniform Act”) and implementing regulations issued at 49 C.F.R. part 24. The Uniform Act establishes uniform policies for the fair and equitable treatment of persons, businesses, or farm operations affected by the acquisition, rehabilitation or demolition of real property acquired for a project financed wholly or in part with federal assistance funds. Recipients and any subrecipients are required to comply fully with the intent of the Uniform Act and to provide evidence of such compliance if requested. See 13 C.F.R. § 302.5.

J. EDA REVIEW OF PLANS AND SPECIFICATIONS

1. The Recipient (with the assistance of its architect/engineer) is responsible for the accuracy and completeness of the design, dimensions, details, proper selection of materials, and compliance with local building codes or ordinances, and is expected to use the “*EDA Contracting Provisions for Construction Projects*,” which provides a list of applicable EDA and other federal requirements as guidance in developing all construction contracts.
2. Plans, specifications, and related documents must be submitted for EDA review and concurrence prior to advertising for bids. EDA’s review is to ensure compliance with the Terms and Conditions of the Award and does not attest to the accuracy of design, dimensions, details, proper selection of materials, nor compliance with local building codes or ordinances. This responsibility rests with the Recipient.

EDA’s review is intended to confirm that:

- (a) The project as designed complies with the scope of work as described in the project application and in the Award;
 - (b) Deductive alternates, if used, are taken in a specific order as shown in the bid documents;
 - (c) Any non-EDA funded work, if included, is identified so separate project progress and separate project costs can be determined; and
 - (d) The EDA project number and applicable EDA participation appears on the cover of all contract drawings and on the face sheet of the specification document(s).
3. EDA also will review for acceptability after advertising but before award of the contract if:
 - (a) The procurement is expected to exceed the simplified acquisition threshold (currently set at \$250,000) and is to be awarded without competition after one bid or offer is received in response to a solicitation;
 - (b) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement;
 - (c) A proposed contract modification changes the scope of a contract or increases the contract amount above the simplified acquisition threshold;
 - (d) The Recipient’s procurement procedures or operations fail to comply with the procurement standards set out in the Award; or
 - (e) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a “name brand” product.
4. Until EDA has reviewed and concurred with the Recipient’s proposed contracts and related documents and determined they comply with the Terms and Conditions, the Recipient will be proceeding at its own risk regarding the eligibility of any costs incurred. See 13 C.F.R. § 305.11.

K. NON-EDA WORK

If the Recipient plans to include both EDA-funded and non-EDA-funded work in a single contract, the following requirements apply:

1. The plans and specifications must clearly define and separate costs included in the EDA project scope of work from other costs;

2. The Recipient may offer for bid and award work in addition to the EDA project, *provided*:
 - (a) the Recipient understands that EDA will participate only in the EDA-approved project; and
 - (b) the additional work does not adversely affect the original intent or economic impact of the EDA-approved project;
3. Plans and specifications must be drawn so that the EDA project is clearly identifiable at all times during construction; and
4. Bid underruns cannot be applied to fund work that is not a part of the EDA project. It is the responsibility of the Recipient to pay in full for all additional work beyond the scope of the EDA project. *See* 13 C.F.R. § 305.10.

Where a proposed contract includes EDA-funded and non-EDA-funded scope(s) of work, the contract will normally be awarded to the lowest bidder on all the work. EDA's participation will be determined based on the bid price for the lowest qualified bid for the EDA-funded scope of work. The Recipient must include pertinent information with the contract award documentation prior to submitting it for EDA concurrence.

L. ALTERNATE CONSTRUCTION PROCUREMENT METHODS

1. Recipients shall seek EDA's prior written approval to use alternate construction procurement methods to the traditional design/bid/build procedure (including lump sum or unit price-type construction contracts). These methods may include design/build, construction management at-risk and "in-house forces". If an alternate method is used, the Recipient shall submit to EDA for approval a construction services procurement plan and the Recipient must use a design professional to oversee the process. *See* 13 C.F.R. § 305.6.
2. If the Recipient elects to use "in-house forces", EDA will furnish specific guidance to the Recipient to determine if the cost for such work is eligible for EDA reimbursement. *See* section IV.F. of this Summary.
3. For all procurement methods, the Recipient must comply with the procedures and standards set forth in 2 C.F.R. part 200.

M. OVERRUN AT THE BID OPENING

If there is an overrun at bid opening, the Recipient may:

1. Take deductive alternatives to eliminate certain project elements in case of insufficient funds – if provided for in the bid documents – in the exact order shown on the invitation for bid until at least one of the responsive bids, less deductive alternative(s), results in a price within the budget for that item of work. It should be noted that the use of deductive alternates may result in a new low bidder. Therefore, care must be taken that the above procedure is followed exactly when deductive alternates are used to determine the lowest bid within the funds available.
2. Reject all bids and re-advertise if there is a rational basis for believing that re-advertising will result in a lower bid (*i.e.*, the Recipient will have the project redesigned or there will be wider advertising).

3. Augment the Recipient's share by an amount sufficient to cover the excess cost. If the Recipient intends to finance the overrun from its own funds, it must furnish a letter to EDA identifying the source of the additional funds and confirming that the funds are from an acceptable source, will be available as needed, and are not or will not be conditioned or encumbered in any way that would preclude its use consistent with the requirements of the Award.
4. Request in writing additional EDA financial assistance as a last resort. EDA may not approve the request for additional funds, which may require the termination of the project. *See* sections VII.C. and D. of this Summary.

V. REQUIREMENTS DURING CONSTRUCTION

A. THE RECIPIENT'S RESPONSIBILITIES

1. *General.* The Recipient (with the assistance of the architect/engineer) is responsible for:
 - (a) ensuring project completion in accordance with approved plans and specifications;
 - (b) monitoring project progress;
 - (c) keeping EDA advised of project progress;
 - (d) providing for adequate construction inspection; (e) paying costs incurred for the project promptly; and (f) monitoring the contractors' compliance with local, State and federal requirements. *See also* section III.B. of this Summary.
2. *EDA construction sign.* The Recipient is responsible for constructing, erecting and maintaining in good condition throughout the construction period a sign (or signs) in a conspicuous place at the project site indicating that the Federal government is participating in the project. EDA will provide specifications for the sign and may require more than one sign if site conditions so warrant. If the EDA-recommended sign specifications conflict with State or local law, the Recipient may modify such recommended specifications so as to comply with the State or local law. *See* 13 C.F.R. § 305.12.
3. *Inspection of construction.* The Recipient must provide competent project inspection during the construction period. The inspector may be an employee of the Recipient, an employee of the architect/engineer, or a person(s) under contract with the Recipient. EDA must review and concur with the extent of the inspection and the selection of the inspector.
4. *Occupancy prior to completion.* If the project or any part of it is to be occupied or used prior to its acceptance from the contractor, the Recipient must:
 - (a) follow the requirements of local or State law;
 - (b) notify EDA of the intent to occupy or use the facility and the effective date of the occupancy or use;
 - (c) secure the written consent of the contractor;
 - (d) secure an endorsement from the insurance carrier and consent of the surety permitting occupancy or use during the period of construction; and
 - (e) secure permanent fire and extended coverage insurance and, where applicable, grant the contractor a permit to complete construction.

Occupancy or use prior to final acceptance from the contractor is entirely at the Recipient's risk. See 13 C.F.R. § 305.14.

5. *Labor standards.* All contractors on EDA-assisted projects are required to perform their work in accordance with OSHA regulations and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by U.S. Department of Labor's regulations (29 C.F.R. parts 5 and 1926). The Recipient or its architect/engineer should periodically check the contractor's compliance. The Recipient shall notify EDA of all serious accidents and/or injuries that occur on the EDA-assisted project.
6. *Inspection for final acceptance.* The Recipient will schedule a final inspection when all construction has been completed, the architect/engineer has accomplished his/her final inspection and all deficiencies have been corrected. The project must be complete and functional before the final inspection is performed. Representatives of the Recipient, the architect/engineer and the contractor(s) will make the final inspection. EDA must be notified in advance of the final inspection so that an EDA representative also may have the opportunity to participate.
7. *Contractor payrolls.* The Recipient must require each contractor and subcontractor to maintain weekly payroll records. EDA may require that copies of payroll records be furnished to the applicable regional office.
8. *Equal employment opportunities.* The regulations at 41 C.F.R. § 60-1.7 issued pursuant to Executive Order 11246, "*Equal Employment Opportunity*", as amended, require all "prime contractors" and "subcontractors," as those terms are defined in 41 C.F.R. § 60-1.3, to submit compliance reports regarding equal employment opportunities. The purpose of the regulations at 41 C.F.R. part 60-1 is to achieve the aims of parts II, III and IV of Executive Order 11246, as amended, for promoting and ensuring equal opportunity for all persons, without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin, employed or seeking employment with Federal government contractors or with contractors performing under federally-assisted construction contracts.

B. CONTRACT CHANGE ORDERS

1. After the construction contracts have been executed, it may become necessary to alter them. This requires a formal contract change order, issued by the Recipient and accepted by the contractor. All contract change orders must be reviewed by EDA, even if EDA is not participating in the cost of the change order or the contract price is to be reduced. See 13 C.F.R. § 305.13.
2. The work on the project may continue pending EDA review and concurrence with the change order but the Recipient should be aware that all such work is at the Recipient's risk as to whether the cost for the work will be an eligible project cost for EDA participation until EDA concurrence is received for the change order.
3. The Recipient (or its architect/engineer) shall perform a cost or price analysis in connection with every change order that affects the contract price. Generally, change orders should be submitted to EDA for review and concurrence as such changes occur. The Recipient will prepare proposed contract change orders in sufficient quantity so that one (1) copy can be furnished to EDA for concurrence. Necessary supporting statements, estimates, specifications and plans should be attached. Before submission to the EDA regional office, the change order must be signed by the Recipient, the architect/engineer and the contractor. The Recipient will be notified in writing of EDA's concurrence if the change order is acceptable to EDA.

4. EDA will not allow changes to the authorized purpose and intent of the project. Change orders that add minimally or incidentally to the cost of the project but do not alter the project scope may be allowed by EDA, *provided*, that either:
 - (a) The Recipient has agreed in writing to fund the additional cost, in which case all work involved in the accomplishment of the change order will be an ineligible project cost and no EDA funds will be used to pay for it; or
 - (b) There are sufficient funds remaining in the project budget to cover the change order without jeopardizing the completion of the project.
5. EDA will not approve EDA financial participation in change orders that are solely for the purpose of using excess funds resulting from an underrun of one or more of the items in the EDA-approved project budget. EDA will concur with a change order if the work in the change order is within the project scope and is necessary for the proper implementation of the project.
6. Unit prices are often used as a basis on which to make a contract award. In addition, they may be used for establishing actual costs where actual quantities differ from estimated quantities. Variations will normally require a change order to the contract whether or not a change in unit price is involved. Any increase in quantity that will result in an overall project cost overrun will require a change order to the contract. Any change to a unit price shown in the contract documents will require a change order to the contract. A change order also may be required at project completion to establish final quantities for unit price contracts.

C. SPECIFIC REQUIREMENTS FOR SUBCONTRACTORS

1. The Recipient is responsible for ensuring that the contractor causes applicable provisions to be inserted in all subcontracts to bind subcontractors to EDA and Departmental requirements as contained in the Terms and Conditions of the Award and in Appendix II to 2 C.F.R. part 200, as appropriate.
2. Each subcontractor must agree to comply with all applicable federal, State, and local requirements.
3. As required by 2 C.F.R. § 200.213, the Recipient (or subrecipient) must not make any award or permit any award (sub-grant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs under 2 C.F.R. part 180 and Executive Orders 12549, “*Debarment and Suspension*” and 12689, “*Debarment and Suspension*.” The Recipient may access the *System for Award Management* (“SAM”), maintained by the General Services Administration, at www.sam.gov/. See also 2 C.F.R. part 1326.
4. The Terms and Conditions of the Award may impose additional requirements, which the Recipient will be required to have the prime contractor impose on any subcontractor(s).

D. CONTRACTING STANDARDS

1. *States.* If a State is the Recipient of EDA investment assistance, when procuring property or services, the State must follow the same policies and procedures it uses for procurements from its non-federal funds. The State will comply with 2 C.F.R. § 200.322 dealing with the procurement of recovered materials and ensure that every

purchase order or other contract includes clauses required by Appendix II to 2 C.F.R. part 200.

2. *Recipients other than States.* Consistent with the requirements of 2 C.F.R. § 200.318, a Recipient of EDA investment assistance other than a State will use its own documented procurement procedures which reflect applicable State and local laws and regulations; provided that the procedures conform to applicable federal law and the standards identified in 2 C.F.R. §§ 200.318 – 200.326. A Recipient may request EDA to review its procurement system to determine whether its system meets these standards. *See* 2 C.F.R. § 200.324(c)(1).

Additionally, the Recipient or subrecipient may self-certify its procurement system. Under a self-certification procedure, EDA may rely on written assurances from the Recipient or subrecipient that it is complying with the standards in 2 C.F.R. §§ 200.318 – 200.326. The Recipient or subrecipient must cite specific policies, procedures, regulations, or standards as being in compliance with 2 C.F.R. §§ 200.318 – 200.326, and have its system available for EDA to review. *See also* section IV.G. for special provisions applicable to certain Indian Tribal Recipients.

3. *Standards of conduct.* Recipients shall maintain a written code of conduct, which shall govern the actions of any Interested Party (as defined in 13 C.F.R. § 300.3) engaged in the award and administration of contracts supported by EDA funds. No Interested Party shall participate in selection or in the award or administration of a contract supported by EDA funds if a conflict of interest, real or apparent, is or could be involved. A conflict may arise when any Interested Party has a financial or personal interest in the firms selected for award. A conflict also may exist where there is an appearance that an Interested Party's objectivity in performing his or her duties is impaired. *See* 13 C.F.R. § 302.17 and 2 C.F.R. § 200.318(c).
4. *Awards to responsible contractors.* Recipients will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources. *See* 2 C.F.R. § 200.318(h).
5. *Maintenance of records.* Recipients will maintain records sufficient to detail the history of each procurement transaction related to the EDA project. These records will include but are not necessarily limited to the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for concluding the contract price. *See* 2 C.F.R. § 200.318(i).
6. *Settlement of issues.* Recipients alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. EDA will not substitute its judgment for that of the Recipient unless the matter, as determined in EDA's sole discretion, primarily involves a federal concern.
7. *Wage rate requirements.* Wage rates paid for labor must not be less than the prevailing area wages, as determined by the U.S. Secretary of Labor and must be embodied in the construction contract pursuant to the requirements of the Davis-Bacon Act, as amended (40 U.S.C. § 3141 *et seq.*). *See also* section IX. (Appendix) of this Summary.

E. COMPETITIVE PROCUREMENT REQUIREMENTS

1. *General.* All procurement transactions in relation to the EDA project must be conducted in a manner providing full and open competition consistent with applicable federal requirements. *See* 2 C.F.R. § 200.319.
2. *Geographic preferences.* Recipients must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this guidance preempts State licensing laws. When contracting for architectural and engineering services, geographic location may be a selection criterion, provided its application leaves an appropriate number of qualified firms (given the nature and size of the project) to compete for the contract. *See* 2 C.F.R. § 200.319.
3. *Written selection procedures.* Recipients must have written selection procedures for procurement actions. These procedures must ensure that all solicitations:

- (a) Incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured. Such descriptions must not contain features that unduly restricts competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of the material, product or service. The specific features of a name brand which must be met by offerors must be clearly stated; and
- (b) Identify all requirements which offerors must fulfill and all factors to be used in evaluating bids or proposals.

See 2 C.F.R. § 200.319.

4. *Bids submitted for alternative materials.*
 - (a) Should the Recipient, acting upon the advice of his/her consultant architect/engineer, desire to obtain competitive prices for differing materials, such bids should be requested on the basis of “alternate bids.” As used herein, this term refers to the method used to obtain bids on more than one material to be used for the same purpose. For example, for 2,000 linear feet of sewer line, Bid A might call for the pipe material to be cast iron. Bid B might call for the pipe material to be ductile iron. Bid C might call for the material to be asbestos cement.
 - (b) If bids are asked for on the basis of two or more alternate bids, the bid documents must clearly state that the contract will be awarded to the bidder having the lowest responsible bid price based upon the availability of funds.
 - (c) If the Recipient wishes to use a material that will result in increased cost, EDA may permit the use of such material, but the amount of EDA’s participation in the project must remain based on the lowest bid from a responsible bidder.

5. *Allowable methods of procurement and related requirements.*

- (a) *Procurement by sealed bids (formal advertising).* Bids are to be publicly solicited and a firm fixed-price contract (lump sum or unit price) is to be awarded to the bidder whose bid, conforming to all material terms and conditions of the invitation for bids, is lowest in price. The sealed bid method is the preferred method for procuring construction services if the conditions in the following sentence are met. In order for sealed bidding to be feasible, the following conditions should be present: (i) a complete, adequate, and realistic specification or purchase description is available; (ii) two or more responsible bidders are willing and able to compete effectively for the business; and (iii) the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

The following requirements apply to sealed bids:

- (i) The invitation for bids is publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for the opening of bids;
- (ii) The invitation for bids, which includes any applicable specifications and pertinent attachments, must adequately define the items or services, in order for the bidder to properly respond;
- (iii) All bids are publicly opened at the time and place prescribed in the invitation for bids;
- (iv) A firm fixed-price contract award will be made in writing to the lowest responsive responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound and properly documented reason.

See 2 C.F.R. § 200.320(c).

The advertising process for inviting bids should be in compliance with applicable State or local requirements where the project will be constructed. In the absence of State or local requirements, the advertisement should appear in publications of general circulation a minimum of four (4) times within a 30-day period prior to the opening of bids. Generally, a minimum of thirty (30) days should be allowed for submission of bids.

- (b) *Procurement by competitive proposals.* Competitive proposals are normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. This method generally is used when conditions are not appropriate for the use of sealed bids. The following requirements apply to competitive proposals:
- (i) Requests for proposals are publicized and identify all evaluation factors and their relative importance; any response to a publicized request for proposals must be considered to the maximum extent practical;
 - (ii) Proposals are solicited from an adequate number of qualified sources (generally, EDA requires responses from at least three responsible firms);
 - (iii) Recipients have a written method for conducting technical

- (iv) evaluations of the proposals received and for selecting awardees; Awards are made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered, as appropriate; and
- (v) Recipients may use competitive proposal procedures for qualification-based procurement of architectural/engineering professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. This method, where price is not a selection factor, can be used only for procuring architectural/engineering professional services. It cannot be used to purchase other types of services though architectural/engineering firms are a potential source to perform the proposed effort.

See 2 C.F.R. § 200.320(d).

- (c) *Procurement by noncompetitive proposals.* This technique requires EDA's prior written concurrence and is conducted by solicitation of a proposal from only one source. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and when one or more of the following circumstances apply:
 - (i) The item is available only from a single source;
 - (ii) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (iii) EDA expressly authorizes noncompetitive proposals in response to a written request from the Recipient; or
 - (iv) After soliciting a number of sources, competition is determined inadequate.

See 2 C.F.R. § 200.320(f).

- (d) *Procurement by Micro Purchases.* Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$10,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micropurchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable. The \$10,000 threshold is periodically adjusted for inflation. For more information, please see Uniform Guidance (2 CFR Part 200.67 and 200.320(a)).
- (e) *Procurement by Small Purchase Procedures.*
Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold of \$250,000. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. The \$250,000 threshold is periodically adjusted for inflation. For more information, see *Uniform Guidance* (2 CFR Part 200.320(b)).
- (f) *Contract cost analysis.*

- (i) The Recipient must perform a cost or price analysis in connection with every procurement action in excess of \$150,000, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Recipient must make independent estimates before receiving bids or proposals.
- (ii) The Recipient must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work
- (iii) Costs or prices based on estimated costs for contracts under grants will be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with federal cost principles (see section VI.A.3. of this Summary). The Recipient may reference its own cost principles that comply with applicable federal cost principles.
- (iv) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

See 2 C.F.R. § 200.323

- (g) *Bonding and insurance requirements.* For construction or facility improvement contracts or for subcontracts exceeding \$150,000, EDA may accept the bonding policy and requirements of the Recipient or subrecipient if EDA or the pass-through entity determines that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements shall apply:
 - (i) A bid guarantee must be obtained from each bidder equivalent to five (5) percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - (ii) A performance bond must be required from the contractor for one hundred (100) percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - (iii) A payment bond must be required from the contractor for one hundred (100) percent of the contract price. A "payment bond" is one executed in connection with a contract to ensure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contracts.

See 2 C.F.R. § 200.325.

The Recipient shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with EDA funds as provided for property owned by the Recipient. Federally owned property need not be otherwise insured unless required by the Terms and Conditions of the Award. See 2 C.F.R. § 200.310

The Recipient shall require each construction contractor and all

subcontractors to maintain, during the life of its contract, Workers' Compensation Insurance, Public Liability Insurance, and such other types of special coverage required by applicable State or local law. Where appropriate, the Recipient shall require the prime contractor to provide Builder's Risk Insurance as part of the construction contract. In all cases, the Recipient is responsible for seeing that coverage is obtained and kept in force. When obtained by the Recipient directly, such coverage is an eligible project cost.

VI. DISBURSEMENT OF GRANT FUNDS AND FINANCIAL ADMINISTRATION

A. PRE-DISBURSEMENT REQUIREMENTS

1. *General.* The Grants Officer determines the appropriate method of payment. Unless otherwise specified in a special award condition, the method of payment will be reimbursement. Disbursements of grant funds will be made by electronic transfer based on the Recipient's actual rate of expenditure. EDA will make disbursements based on the percentage of EDA participation, but in no event for more than the total sum stated in the Award. The initial disbursement will be made only after the following conditions have been met:

- (a) EDA determines that the Recipient has satisfied all applicable Terms and Conditions of the Award (*see* 13 C.F.R. § 305.9(b));
- (b) The Recipient has completed and submitted Form SF-3881, "*ACH Vendor/Miscellaneous Payment Enrollment Form*;"
- (c) The Recipient has requested disbursement by submitting Form SF-271, "*Outlay Report and Request for Reimbursement for Construction Programs*" (OMB Control No. 0348-0002), for incurred costs that are itemized and eligible;
- (d) The Recipient certifies that its proportionate share of funds (including overruns) is on deposit; and
- (e) The Recipient meets such other requirements as EDA may establish.

Recipients shall disburse program income, rebates, refunds, contract settlements, and audit recoveries before requesting additional grant disbursements.

2. *Allowable costs.* EDA allowable costs are determined by reference to Subpart E of 2 C.F.R. part 200, "*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. Generally, costs that are allowable include salaries, supplies and other expenses that are reasonable and necessary for the completion of the scope of work. Allowable costs must be determined in accordance with the cost principles.
3. *Acceptable costs and contributions.* In determining the amount of the non-federal share of the cost of a project, EDA may provide credit towards the non-federal share of all contributions both in cash and in-kind, fairly evaluated, including contributions of space, equipment, assumptions of debt, and services. *See* section 204(b) of PWEDA (42 U.S.C. § 3144).

The matching share may include funds from other federal agencies only if authorized by statute that allows such use, which may be determined by EDA's reasonable interpretation of such authority. *See* 13 C.F.R. § 300.3.

Neither cash nor the value of in-kind contributions may count towards satisfying a cost-sharing requirement of a grant agreement if it has been or will be counted towards

satisfying a cost-sharing requirement of another federal grant agreement, a federal procurement contract, or any other award of federal funds. The eligible applicant must show that the matching share is committed to the EDA project, will be available as needed and is not or will not be conditioned or encumbered in any way that would preclude its use consistent with the requirements of the Award. See 13 C.F.R. § 301.5.

B. INTERIM DISBURSEMENTS

After the initial disbursement has been made, the Recipient may request interim disbursements by submitting Form SF-271 and including substantiating invoices and/or vouchers, as required for reimbursement of EDA's share of eligible project costs. Interim disbursements will normally continue until ninety (90) percent of the grant funds have been disbursed, with the remaining ten (10) percent normally held pending final disbursement and project close-out.

C. FINAL DISBURSEMENT

When project construction and final inspection have been completed, or substantially completed as determined by EDA, and the Recipient has accepted the project from the contractor, the Recipient can begin the close-out process by submitting the following documentation to EDA:

1. A request for final disbursement on an executed Form SF-271;
2. A written certification that all costs charged against the Award (EDA share and non-Federal share) are for eligible activities and represent allowable costs, for which there is documentation in the Recipient's records;
3. An executed certificate of final acceptance signed by the Recipient and the Recipient's architect/engineer;
4. The Recipient's certification that its currently valid single or program-specific audit in accordance with Subpart F of 2 C.F.R. part 200, if applicable, does not contain any material findings (if the Recipient's currently valid audit does contain material findings, the Recipient shall submit the applicable audit preferably via email to the Project Officer, who will review with the Grants Officer);
5. The Recipient's certification that its currently valid audit (in accordance with Subpart F of 2 C.F.R. part 200), if applicable, has been submitted to the Federal Audit Clearinghouse; and
6. Other documentation as may be required by EDA.

The Recipient will be advised by EDA of costs found eligible, costs found ineligible and the reasons for findings of ineligibility. If a balance of the grant is due to the Recipient, the balance will be paid by wire transfer. If the Recipient has received a grant amount in excess of the amount due the Recipient, the Recipient must refund the excess to EDA. The Recipient shall contact the Project Officer for refund instructions.

VII. AWARD AMENDMENTS, APPROVALS, AND NOTIFICATIONS

Between approval and closeout of an EDA construction project, modifications to the Terms and Conditions may be necessary to resolve unforeseen problems. In most instances, the proposed modification can be accomplished only if EDA agrees to a formal amendment to the Award.

A. AMENDMENTS

In order to amend the Award, the Project Officer shall prepare Form CD-451, "*Amendment to Financial Assistance Award*," for execution by both the Regional Director and the Recipient's authorized representative. Form CD-451 is required for any of the following amendments to an Award:

1. Changes to project scope of work;
2. Budget revisions requiring additional EDA or non-EDA sources of funds;
3. Budget revisions that result in cumulative transfers among direct cost categories in excess of ten (10) percent of the total project cost when the federal share exceeds \$150,000;
4. The inclusion of certain costs for which EDA's prior approval is needed under 2 C.F.R. part 200, "*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*;
5. Change of site location;
6. Change to or addition of Recipient;
7. Time extensions; and
8. Modifications to the Terms and Conditions of the Award, other than time extensions.

See 2 C.F.R. § 200.308.

When Form CD-451 is required, the Recipient must submit a request for amendment in writing to the EDA regional office. If the request is approved, the EDA regional office completes and transmits the Form CD-451 to the Recipient. The Recipient's authorized representative must execute the Form CD-451 and return it to the EDA regional office.

B. TIME SCHEDULE EXTENSIONS

1. Unless otherwise authorized in 2 CFR § 200.308, or a special award condition, any extension of the period of performance can only be authorized by the Grants Officer in writing. A verbal or written assurance of funding from other than the Grants Officer, including Regional Office staff other than the Grants Officer, does not constitute authority to obligate funds for programmatic activities beyond the expiration date of the period of performance.
2. The Recipient is responsible for implementing the project in accordance with the project development time schedule contained in the Award. As soon as the Recipient becomes aware that it will not be possible to meet the project development time schedule, it must notify the EDA regional office. The Recipient's notice to EDA must contain the following information:
 - (a) An explanation of the reason for the Recipient's inability to complete work by the specified date (*e.g.*, a lengthy period of unusual weather delayed the contractor's ability to excavate the site, major re-engineering required in order to obtain State or federal approvals, unplanned environmental mitigation required);
 - (b) A statement that no other changes to the project are contemplated;
 - (c) Documentation that demonstrates there is still a bona fide need for the project; and
 - (d) A statement that no further delay is anticipated and that the project can be completed within the revised time schedule.
3. EDA expects construction on a project to start within two (2) years from the date of grant award. In accordance with EDA policy, the maximum construction start time extension

that any region can grant is restricted to a date wherein the project will still be completed within five (5) years from the date of grant award. If the delayed construction start date might impact the project being completed within five (5) years or any extension beyond that five (5) year limit must be approved by the Assistant Secretary of Commerce for Economic Development.

4. EDA reserves the right to withhold disbursements while the Recipient is not in compliance with the time schedule and to suspend or terminate an Award if the Recipient fails to proceed with reasonable diligence to accomplish the project as intended. *See also* sections IV.C and VII.F. of this Summary.

C. BUDGET REVISIONS

1. The tabulation of estimated project costs contained in the Award (i.e., the EDA-approved budget) is the controlling budget plan for the project. The Recipient must notify EDA of any proposed deviation from the budget or program plans in accordance with 2 C.F.R. § 200.308, including any change in scope of work or the objective of the project (even if there is no associated budget revision requiring prior written approval). If prior written approval is not required under 2 C.F.R. § 200.308, the Recipient may request the Grants Officer's review of and guidance on proposed revisions to the budget.
2. The transfer of funds from line items other than the contingencies line item may be permitted, *provided* there will be no significant adverse effect on the objective of the line item from which the transfer is to be made.
3. Transfers shall not be permitted if such transfers would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended. This transfer authority does not authorize the Recipient to create new budget categories within an approved budget unless the Grants Officer has provided prior written approval. *See* 2 C.F.R. § 200.308.
4. The construction line item will be revised at the time of contract award to reflect the actual contract amount(s). Underrun amounts shall be transferred to the contingencies line item. Contingency funds are to be used to address situations resulting from unknown conditions and changes required for the fulfillment of authorized project activities under the Award. EDA may approve the use of underrun funds to increase the EDA share of the project or further improve the project, as long as EDA determines that the use is consistent with the original purpose of the approved-EDA investment. *See* 13 C.F.R. § 308.1.

D. ADDITIONAL EDA FUNDING

1. In accepting financial assistance from EDA, the Recipient agreed to fund any overrun(s) from non-Federal sources. Additional EDA assistance for a project may not be approved. To be considered for approval, it must compete with other requests for scarce EDA funds.
2. If an overrun occurs as a result of the construction contract bid opening, before EDA will consider a formal request for additional EDA funds, it is necessary for the Recipient to furnish the following documentation:
 - (a) A written statement from the Recipient's architect/engineer, giving reasons for his/her professional opinion that redesign of the project within the approved scope, or using new or additional deductive alternates cannot reasonably be expected to

- reduce the cost to within the available funds; and
 - (b) A written statement from the administrative head of the Recipient's organization justifying why the Recipient cannot furnish the additional funds required, why non-EDA sources of funds cannot be secured, and certifying that the Recipient's borrowing capacity has been exhausted.
- 3. EDA's consideration of a request for additional EDA assistance does not indicate approval.

See 13 C.F.R. § 305.10.

E. ADMINISTRATIVE APPROVALS AND NOTIFICATIONS

1. EDA shall issue a written administrative approval for budget revisions that result in the cumulative transfer among direct cost categories of *less than 10 percent* of the total project cost and to approve budget revisions that result in the transfer of funds between direct and indirect cost categories, as long as those transfers are also *less than 10 percent* of the total project cost.
2. EDA shall issue a written administrative notification upon EDA's approval and acceptance of the Recipient's documentation of compliance with special award conditions (for example, compliance with environmental or historic preservation law requirements) and upon EDA's change in the Project Officer or other administrative official assigned to the Recipient's project, if applicable.

F. TERMINATION OF INVESTMENT ASSISTANCE

1. In accordance with 2 C.F.R. § 200.339, an Award may be terminated in whole or in part as follows:
 - (a) *Termination by EDA for the Recipient's Failure to Comply with any Term or Condition of the Award.* Examples of recipient failure to comply with terms and conditions of the award include if:
 - (i) Any representation made by the Recipient to EDA in connection with the application for the Award is incorrect or incomplete in any material respect;
 - (ii) The project has changed substantially, without EDA approval, so as to affect significantly the accomplishment of the project as intended (including an unauthorized use of property as provided in 13 C.F.R. § 314.4.);
 - (iii) The Recipient has violated commitments it made in its application and supporting documents or has violated any of the terms and conditions of the Award;
 - (iv) The conflicts-of-interest rules at 13 C.F.R. § 302.17 are violated; or
 - (v) The Recipient fails to report immediately to EDA any change of authorized representative acting in lieu of or on behalf of the Recipient.
 - (b) *Termination by EDA for Cause.* EDA may terminate the Award for cause if required by a circumstance beyond EDA's control, such as a Congressional

mandate.

- (c) *Termination by the Recipient.* The Recipient may terminate the Award in whole or in part upon sending the EDA Grants Officer written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if EDA determines in the case of partial termination that the reduced or modified portion of the EDA Award will not accomplish the purposes for which the EDA Award was made, EDA may terminate the Award in its entirety.
 - (d) *Termination Upon Mutual Agreement.* EDA and the Recipient may mutually agree to terminate the Award in whole or in part. In such cases, EDA and the Recipient must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
2. If the Award is wholly or partially terminated, the Recipient remains responsible for compliance with the requirements in 2 C.F.R. §§ 200.343 and 200.344.
 3. Failure to comply with the provisions of this Award may be grounds for appropriate enforcement action pursuant to 2 C.F.R. § 200.338, including initiating suspension and debarment proceedings in accordance with 2 CFR parts 180 and 1326. *See also* 2 C.F.R. § 200.213.
 4. In taking any remedy for non-compliance, EDA will provide the Recipient an opportunity to object and provide information and documentation challenging the suspension or termination action. *See* 2 C.F.R. § 200.341.
 5. Costs resulting from obligations incurred by the Recipient during a suspension or after termination of the Award are not allowable unless EDA expressly authorizes them in the notice of suspension or termination, or subsequently. However, costs during suspension or after termination are allowable if:
 - (a) The costs result from obligations that were properly incurred by the Recipient before the effective date of the suspension or termination, are not in anticipation of it; and
 - (b) The costs would be allowable if the Award were not suspended or expired normally at the end of the period of performance in which the termination takes effect. *See* 2 C.F.R. § 200.342.
 6. When EDA terminates an award prior to the end of the period of performance due to the Recipient's material failure to comply with the Award terms and conditions, EDA must report the termination to the OMB-designated integrity and performance system accessible through SAM. *See* 2 C.F.R. § 200.339.
 7. Other Federal agencies that consider making an Award to the Recipient during the five-year period an EDA termination is available in SAM, must consider that information in judging whether the Recipient is qualified to receive the Award, when the Federal share of the Award is expected to exceed \$150,000 over the period of performance. *See* 2 C.F.R. § 200.205.

VIII. POST-CONSTRUCTION REQUIREMENTS

A. ORGANIZATION-WIDE, PROGRAM-SPECIFIC, AND PROJECT AUDIT REQUIREMENTS

1. *Requirement to have an audit performed.* Organization-wide or program- specific audits must be performed in accordance with the Single Audit Act Amendments of 1996, as implemented by subpart F of 2 C.F.R. part 200. Recipients that expend \$750,000 or more in Federal awards during their fiscal year shall have an audit conducted for that year in accordance with the requirements set forth in subpart F of 2 C.F.R. part 200.
2. *Requirement to submit audit to Federal Audit Clearinghouse.* Within the earlier of 30 calendar days after receipt of the auditor's report, or nine months after the end of the audit period, the Recipient must submit a copy of the audit to the Federal Audit Clearinghouse website at <http://harvester.census.gov/sac/>.

If it is necessary to submit using paper, the address for submission is:

Federal Audit
Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, IN 47132

Within 90 days of the end of the fiscal year of a Recipient subject to subpart F of 2 C.F.R. part 200, the entity is responsible for notifying the Grants Officer of the amount of Federal awards, including all EDA and non-EDA awards, the Recipient expended during its fiscal year.

A Recipient that expends less than \$750,000 in Federal awards during its fiscal year is exempt from Federal audit requirements for that year, except as noted at 2 C.F.R. § 200.503, but records must be available for review and audit by EDA, DOC, or other designated Government officials.

Failure to provide audit reports within the timeframes specified may result in appropriate enforcement action, up to and including termination of the Award, and may jeopardize eligibility for receiving future awards.

3. *EDA-specific audit requirements.* EDA's Public Works and Economic Adjustment Assistance programs generally have specific audit guidelines that will be incorporated into the Award and may be found in the annual Compliance Supplement, which is Appendix XI to 2 C.F.R. part 200 and is available on OMB's website (https://www.whitehouse.gov/omb/circulars_default). When EDA does not have a program-specific audit guide available for the program, the auditor will follow the requirements for a program-specific audit as described in 2 C.F.R. § 200.507. The Recipient may include a line item in the budget for the cost of the audit for approval. A copy of the program-specific audit shall be submitted to the Grants Officer.
4. *Recipient responsibility.* Recipients are responsible for compliance with the above audit requirements and for informing the Grants Officer of the status of their audit, including when the relevant audit has been completed and submitted in accordance with the requirements of this section. In accordance with 2 C.F.R. § 200.331(d)(3), pass-through entities are responsible for issuing a management decision for any audit findings pertaining to the Award provided to a subrecipient.

5. *Requirement to submit audit to EDA.* If the Recipient's currently valid audit required under subpart F of 2 C.F.R. part 200 contains material findings, the Recipient must submit a copy of the audit to the Project Officer, who will review it with the Grants Officer.

B. DEPARTMENTAL AUDIT RESOLUTION PROCESS

1. Under the Inspector General Act of 1978, as amended (5 U.S.C. App. 3, § 1 *et seq.*), EDA or the Department's Office of the Inspector General ("OIG") may conduct an audit of the Award at any time. The Department's Inspector General, or any of his or her duly authorized representatives, shall have access to all pertinent books, documents, papers and records of the Recipient, whether written, printed, recorded, produced or reproduced by any electronic, mechanical, magnetic or other process or medium, in order to make audits, inspections, excerpts, transcripts or other examinations as authorized by law. This right also includes timely and reasonable access to the Recipient's personnel for the purpose of interview and discussion related to such documents. See 2 C.F.R. § 200.336 and 13 C.F.R. § 302.14.

When the OIG requires a program audit on the Award, the OIG will usually make the arrangements to audit the Award, whether the audit is performed by an independent accountant under contract with the Department, OIG personnel, or any other federal, State or local audit entity.

2. An audit of the Award may result in the disallowance of costs incurred by the Recipient and the establishment of a debt (an account receivable) due to EDA. For this reason, the Recipient should take seriously its responsibility to respond to all audit findings and recommendations with adequate explanations and supporting evidence when disputing audit determinations.
3. In accordance with the *Federal Register* notice dated January 27, 1989 (54 *Fed. Reg.* 4053), a Recipient has the following opportunities to dispute the proposed disallowance of costs and the establishment of a debt after an audit:
 - (a) The Recipient has thirty (30) business days from the date of the transmittal of the OIG's "Draft Audit Report" to submit written comments and documentary evidence.
 - (b) The Recipient has thirty (30) business days from the date of the transmittal of the "Final Audit Report" to submit written comments and documentary evidence. There will be no extension of this deadline.
 - (c) EDA will review any documentary evidence submitted by the Recipient, and will notify the Recipient of the results in an "Audit Resolution Determination Letter." The Recipient has thirty (30) business days from the date of receipt of the Audit Resolution Determination Letter to submit a written appeal. There will be no extension of this deadline. The appeal is the last opportunity for the Recipient to submit written comments and documentary evidence that dispute the validity of the Audit Resolution Determination Letter.
 - (d) An appeal of the Audit Resolution Determination Letter does not prevent the establishment of any audit-related debt nor does it prevent the accrual of interest on such debt. If the Audit Resolution Determination Letter is overruled or modified on appeal, appropriate corrective action will be taken retroactively. An appeal will stay the offset of funds owed by the Recipient against funds due to the Recipient.
 - (e) EDA or the Department, as applicable, will review the Recipient's appeal. EDA

will notify the Recipient of the results in an “Appeal Determination Letter.” After the opportunity to appeal has expired or after the appeal determination has been rendered, EDA or the Department will not accept any further documentary evidence from the Recipient. No other EDA or Department administrative appeals are available.

C. PROPERTY MANAGEMENT

1. Any property that is acquired or improved, in whole or in part, with EDA investment assistance, whether through a grant or a cooperative agreement, is subject to the requirements of PWEDA and the regulations at 13 C.F.R. part 314. Requirements related to title, authorized use, successor Recipient, property disposition, and Federal Share (as defined in 13 C.F.R. § 314.5) are set out at 13 C.F.R. part 314.
2. During the estimated useful life of the project involving the acquisition, construction or improvement of a building, as determined by EDA, EDA retains a Federal Interest in the project property. See section III.A. of this Summary; 13 C.F.R. § 314.2; and 2 C.F.R. §§ 200.41, 200.316. The Federal Interest secures compliance with the ownership, purpose, scope and intended use of the EDA project and may be reflected by a recorded lien, covenant, statement or other recordable instrument setting forth EDA’s property interest (*e.g.*, a mortgage). See 13 C.F.R. § 314.8.
3. A Recipient may request a release of the Federal Interest in property acquired or improved with EDA investment assistance and fully compensate EDA for its Federal Share in the property. A release pursuant to 13 C.F.R. § 314.2(b) gives the Recipient title to the property free and clear of any further governmental interest except with respect to non-discrimination requirements set forth in 13 C.F.R. § 302.20 and the inherently religious activities prohibition. See 13 C.F.R. §§ 302.20 and 314.10.

A Recipient may request a release of the Federal Interest in project assets where the estimated useful life has expired or for projects that are subject to an estimated useful life in excess of the statutory twenty (20) year limitation. See section 601(d)(2) of PWEDA (42 U.S.C. § 3211) and 13 C.F.R. § 314.10. In that case, EDA may release its Federal Interest, however, the property acquired or improved with EDA investment assistance may not be used: (a) in violation of the nondiscrimination requirements set forth in 13 C.F.R. § 302.20; or (b) for inherently religious activities prohibited by applicable federal law.

D. CLOSEOUT PROCEDURES

1. After construction is completed and the project is closed out financially, the Recipient has an ongoing responsibility to properly administer, operate and maintain the project for its estimated useful life (as determined by EDA) in accordance with its original purpose. See 13 C.F.R. § 302.12. The Recipient must comply with all Award requirements and maintain records to document such compliance, which shall be made available for inspection by EDA or other government officials as required. When project construction and final inspection have been completed, or substantially completed as determined by EDA, and the Recipient has accepted the project from the contractor, the Recipient may begin the closeout process by submitting the following documentation to EDA:
 - (a) A request for final disbursement on an executed SF-271.
 - (b) A written certification that all costs charged against the Award (EDA and non- EDA shares) are eligible activities and represent allowable costs, for which there is documentation in the Recipient’s records.

- (c) An executed certification of final acceptance signed by the Recipient and the Recipient's architect/engineer.
 - (d) The Recipient's certification that its currently valid single or program-specific audit in accordance with subpart F of 2 C.F.R. part 200, if applicable, does not contain material findings (if the Recipient's currently valid audit does contain material findings, the Recipient shall submit the applicable audit preferably via email to the Project Officer, who will review with the Grants Officer).
 - (e) The Recipient's certification that its currently valid audit (in accordance with subpart F of 2 C.F.R. part 200), if applicable, has been submitted to the Federal Audit Clearinghouse.
 - (f) A copy of the completed "Project Close-out Checklist" available on the *Post-Approval Construction CD*.
 - (g) Other documentation as may be required by EDA.
2. If a Recipient chooses not to complete and submit the "Project Close-out Checklist" available on the *Post-Approval Construction CD*, the Recipient must provide EDA the following documentation in addition to that listed above:
- (a) Verification of compliance with all Award terms and conditions, including special award conditions (if not already provided).
 - (b) Verification of procurement of permanent insurance for above-ground facilities.
 - (c) Verification of compliance with the requirement that all changes to the project have been brought to EDA's attention.
 - (d) Verification of recipient's compliance with the requirement to retain all records pertinent to the Award for three years from the date of submission of the final expenditure report, with the following exceptions:
 - (i) If any litigation, claim, or audit begins before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken;
 - (ii) Records for real property and equipment acquired with federal funds must be retained for three years after final disposition; and
 - (iii) When records are transferred or maintained by EDA, the three-year retention requirement is not applicable to the recipient.
 - (e) Verification of receipt of as-built drawings from the contractor or the architect/engineer.
 - (f) Certification that there are no outstanding Davis-Bacon Act or local labor employment violations.
 - (g) Any change, lien, mortgage, or other encumbrance relating to the ownership of the property acquired or improved with EDA assistance.
 - (h) Documentation on any unresolved contract/contractor disputes.
 - (i) Documentation verifying execution and recordation in the appropriate jurisdiction of a lien or covenant of purpose, use, and ownership in favor of EDA, if a lien or covenant of purpose has not already been executed and recorded.
 - (j) Certification that the project facility will be maintained by the recipient for its entire estimated useful life as determined by EDA, during which period the recipient shall not alienate its ownership or alter the use and purpose of the EDA-assisted facility without EDA's written permission.
 - (k) Any other documentation required by the EDA Engineer/Construction Manager or Project Officer to ensure compliance with the terms and conditions of the Award.

3. The Recipient shall submit, within ninety (90) calendar days after the project closeout date, all financial, performance and other reports as required by the Terms and Conditions of the Award. The Grants Officer may extend the ninety (90) calendar day closeout period upon a written request from the Recipient.
4. Unless EDA authorizes an extension, the Recipient must liquidate all obligations incurred under the Award no later than ninety (90) calendar days after acceptance of the project from the contractor or within ninety (90) calendar days of the expiration date of the Award, whichever occurs earlier, as specified in the Terms and Conditions of the Award.
5. The closeout of an Award does not affect any of the following:
 - (a) The right of EDA to disallow costs and recover funds on the basis of a later audit or other project review;
 - (b) The Recipient's obligation to return any funds due as a result of later corrections or other transactions;
 - (c) Requirements for property management, records retention and performance measurement reports; or
 - (d) Single or program-specific audit requirements in accordance with subpart F of 2 C.F.R. part 200 or other project review;
 - (e) The Recipient's obligation to return any funds due as a result of later corrections or other transactions;
 - (f) Requirements for property management, records retention and performance measurement reports; or
 - (g) Single or program-specific audit requirements in accordance with subpart F of 2 C.F.R. part 200.

IX. APPENDIX

The following documents are available from the Office of Management and Budget's, the Department of Commerce's, and the Government Printing Office's websites at www.whitehouse.gov/omb/, www.commerce.gov, www.gpoaccess.gov, public libraries, and other sources. Each document listed below contains a link that will take you directly to that document on the internet.

1. [2 C.F.R. part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)
2. [2 C.F.R. part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension \(Nonprocurement\)](#)
3. [2 C.F.R. part 1326, Department of Commerce regulations on Nonprocurement Debarment and Suspension](#)
4. [2 C.F.R. part 182, Governmentwide Requirements for Drug-Free Workplace \(Financial Assistance\)](#)
5. [13 C.F.R. Chapter III](#) (EDA's regulations)
6. [48 C.F.R. part 31, Contract Cost Principles and Procedures](#)
7. [49 C.F.R. part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs](#)
8. Davis Bacon Wage Rate Determinations: www.wdol.gov/

APPENDIX A: SAMPLE PROFESSIONAL SERVICES AGREEMENT

If a contract is awarded, the selected Firm(s) will be required to adhere to a set of general contract provisions which will become a part of any formal agreement. These provisions are general principles which apply to all contractors/service providers to the City of Ann Arbor. The required provisions are:

(2020 PSA over \$25,000 NO Auto AI Rev. 1)

This agreement ("Agreement") is between the City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 E. Huron St. Ann Arbor, Michigan 48104 ("City"), and _____ ("Contractor"), a(n) _____, with its address at _____
(State where organized) (Partnership, Sole Proprietorship, or Corporation)
_____. City and Contractor are referred to collectively herein as the "Parties." The Parties agree as follows:

I. DEFINITIONS

Administering Service Area/Unit means _____.

Contract Administrator means _____, acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for and delivered to City by Contractor under this Agreement.

Project means _____.
Project name

II. DURATION

Contractor shall commence performance on _____, 20__ ("Commencement Date"). This Agreement shall remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in Article XI. The terms and conditions of this Agreement shall apply to the earlier of the Effective Date or Commencement Date.

III. SERVICES

A. The Contractor agrees to provide _____

Type of service

("Services") in connection with the Project as described in Exhibit A. The City retains the right to make changes to the quantities of service within the general scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the services, the compensation shall be adjusted

accordingly. All such changes shall be executed under the conditions of the original Agreement.

- B. Quality of Services under this Agreement shall be of the level of quality performed by persons regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. The Contractor shall perform its Services for the Project in compliance with all statutory, regulatory, and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement. The Contractor shall also comply with and be subject to the City of Ann Arbor policies applicable to independent contractors.
- D. The Contractor may rely upon the accuracy of reports and surveys provided to it by the City (if any) except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

IV. INDEPENDENT CONTRACTOR

The Parties agree that at all times and for all purposes under the terms of this Agreement each Party's relationship to any other Party shall be that of an independent contractor. Each Party will be solely responsible for the acts of its own employees, agents, and servants. No liability, right, or benefit arising out of any employer/employee relationship, either express or implied, shall arise or accrue to any Party as a result of this Agreement.

Contractor does not have any authority to execute any contract or agreement on behalf of the City, and is not granted any authority to assume or create any obligation or liability on the City's behalf, or to bind the City in any way.

V. COMPENSATION OF CONTRACTOR

- A. The Contractor shall be paid in the manner set forth in Exhibit B. Payment shall be made monthly, unless another payment term is specified in Exhibit B, following receipt of invoices submitted by the Contractor, and approved by the Contract Administrator.
- B. The Contractor will be compensated for Services performed in addition to the Services described in Article III, only when the scope of and compensation for those additional Services have received prior written approval of the Contract Administrator.
- C. The Contractor shall keep complete records of work performed (e.g. tasks performed, hours allocated, etc.) so that the City may verify invoices submitted by the Contractor. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

VI. INSURANCE/INDEMNIFICATION

- A. The Contractor shall procure and maintain from the Effective Date or Commencement Date of this Agreement (whichever is earlier) through the conclusion of this Agreement, such insurance policies, including those set forth in Exhibit C, as will protect itself and the City from all claims for bodily injuries, death or property damage that may arise under this Agreement; whether the act(s) or omission(s) giving rise to the claim were made by the Contractor, any subcontractor, or anyone employed by them directly or indirectly. Prior to commencement of work under this Agreement, Contractor shall provide to the City documentation satisfactory to the City, through City-approved means (currently myCOI), demonstrating it has obtained the policies and endorsements required by Exhibit C. Contractor shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. When requested, Contractor shall provide the same documentation for its subcontractor(s) (if any).
- B. Any insurance provider of Contractor shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-authorized insurance companies are not acceptable unless approved in writing by the City.
- C. To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses, including attorney's fees, resulting or alleged to result, from any acts or omissions by Contractor or its employees and agents occurring in the performance of or breach in this Agreement, except to the extent that any suit, claim, judgment or expense are finally judicially determined to have resulted from the City's negligence or willful misconduct or its failure to comply with any of its material obligations set forth in this Agreement.

VII. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The Contractor agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of MCL 37.2209. The Contractor further agrees to comply with the provisions of Section 9:158 of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.

- B. Living Wage. If the Contractor is a “covered employer” as defined in Chapter 23 of the Ann Arbor City Code, the Contractor agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Contractor agrees to pay those employees providing Services to the City under this Agreement a “living wage,” as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

VIII. WARRANTIES BY THE CONTRACTOR

- A. The Contractor warrants that the quality of its Services under this Agreement shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. The Contractor warrants that it has all the skills, experience, and professional licenses (if applicable) necessary to perform the Services pursuant to this Agreement.
- C. The Contractor warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services pursuant to this Agreement.
- D. The Contractor warrants that it has no personal or financial interest in the Project other than the fee it is to receive under this Agreement. The Contractor further certifies that it shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of the Services it is to provide pursuant to this Agreement. Further Contractor agrees and certifies that it does not and will not employ or engage any person with a personal or financial interest in this Agreement.
- E. The Contractor warrants that it is not, and shall not become overdue or in default to the City for any contract, debt, or any other obligation to the City including real and personal property taxes. Further Contractor agrees that the City shall have the right to set off any such debt against compensation awarded for Services under this Agreement.
- F. The Contractor warrants that its proposal for services was made in good faith, it arrived at the costs of its proposal independently, without consultation, communication or agreement, for the purpose of restricting completion as to any matter relating to such fees with any competitor for these Services; and no attempt has been made or shall be made by the Contractor to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

- G. The person signing this Agreement on behalf of Contractor represents and warrants that she/he has express authority to sign this Agreement for Contractor and agrees to hold the City harmless for any costs or consequences of the absence of actual authority to sign.

IX. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Contractor access to the Project area and other City-owned properties as required to perform the necessary Services under this Agreement.
- B. The City shall notify the Contractor of any defects in the Services of which the Contract Administrator has actual notice.

X. ASSIGNMENT

- A. The Contractor shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Contractor shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.
- B. The Contractor shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XI. TERMINATION OF AGREEMENT

- A. If either party is in breach of this Agreement for a period of fifteen (15) days following receipt of notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice. The waiver of any breach by any party to this Agreement shall not waive any subsequent breach by any party.
- B. The City may terminate this Agreement, on at least thirty (30) days advance notice, for any reason, including convenience, without incurring any penalty, expense or liability to Contractor, except the obligation to pay for Services actually performed under the Agreement before the termination date.
- C. Contractor acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for this Project. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The Contract Administrator shall give Contractor written notice of such non-appropriation within thirty (30) days after it receives

notice of such non-appropriation.

- D. The provisions of Articles VI and VIII shall survive the expiration or earlier termination of this Agreement for any reason. The expiration or termination of this Agreement, for any reason, shall not release either party from any obligation or liability to the other party, including any payment obligation that has already accrued and Contractor's obligation to deliver all Deliverables due as of the date of termination of the Agreement.

XII. REMEDIES

- A. This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory and/or other legal right, privilege, power, obligation, duty or immunity of the Parties.
- B. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any agreement between the parties or otherwise.
- C. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently effect its right to require strict performance of this Agreement.

XIII. NOTICE

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated below or such other address as either party may designate by prior written notice to the other. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to the CONTRACTOR, it shall be addressed and sent to:

If Notice is sent to the CITY, it shall be addressed and sent to:

City of Ann Arbor

(insert name of Administering Service Area Administrator)

301 E. Huron St.
Ann Arbor, Michigan 48104

With a copy to: The City of Ann Arbor
ATTN: Office of the City Attorney
301 East Huron Street, 3rd Floor
Ann Arbor, Michigan 48104

XIV. CHOICE OF LAW AND FORUM

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction, excepting the principles of conflicts of law. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

XV. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all documents (i.e., Deliverables) prepared by or obtained by the Contractor as provided under the terms of this Agreement shall be delivered to and become the property of the City. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities and other data shall remain in the possession of the Contractor as instruments of service unless specifically incorporated in a deliverable, but shall be made available, upon request, to the City without restriction or limitation on their use. The City acknowledges that the documents are prepared only for the Project. Prior to completion of the contracted Services the City shall have a recognized proprietary interest in the work product of the Contractor.

XVI. CONFLICTS OF INTEREST OR REPRESENTATION

Contractor certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Contractor further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

Contractor agrees to advise the City if Contractor has been or is retained to handle any matter in which its representation is adverse to the City. The City's prospective consent to the Contractor's representation of a client in matters adverse to the City, as identified above, will not apply in any instance where, as the result of Contractor's representation, the Contractor has obtained

sensitive, proprietary or otherwise confidential information of a non-public nature that, if known to another client of the Contractor, could be used in any such other matter by the other client to the material disadvantage of the City. Each matter will be reviewed on a case by case basis.

XVII. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

XVIII. EXTENT OF AGREEMENT

This Agreement, together Exhibits A, B, and C, constitutes the entire understanding between the City and the Contractor with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. No terms or conditions of either party's invoice, purchase order or other administrative document shall modify the terms and conditions of this Agreement, regardless of the other party's failure to object to such form. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be altered, amended or modified by written amendment signed by the Contractor and the City. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

XIX. ELECTRONIC TRANSACTION

The parties agree that signatures on this Agreement may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this Agreement. This Agreement may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

XX. EFFECTIVE DATE

This Agreement will become effective when all parties have signed it. The Effective Date of this Agreement will be the date this Agreement is signed by the last party to sign it.

[REMAINDER OF PAGE LEFT BLANK; SIGNATURE PAGE FOLLOWS]

FOR CONTRACTOR

By _____
Type Name

Its

Date: _____

FOR THE CITY OF ANN ARBOR

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Date: _____

Approved as to substance

Type Name
Service Area Administrator

Milton Dohoney, Jr., Interim City
Administrator

Approved as to form and content

Stephen K. Postema, City Attorney

EXHIBIT A
City of Ann Arbor Fiber & Conduit Design and Construction
Detailed Technical Specifications

I. Detailed/Standard Specifications; Technical, Warranty and Project Supervision

A. Standard Specifications:

- a. All work under this contract shall be performed in accordance with the Public Services Department Standard Specifications in effect at the date of availability of the contract documents stipulated in the Bid. All work under this Contract which is not included in these Standard Specifications, or which is performed using modifications to these Standard Specifications, shall be performed in accordance with the Detailed Specifications included in these contract documents. Standard Specifications are available online:

<http://www.a2gov.org/departments/engineering/Pages/Engineering-and-Contractor-Resources.aspx>

B. General Requirements

- a. All work performed by the Contractor shall be in accordance with the City's specifications and all applicable standards included but not limited to the following:
 - a. ANSI, ATIS, ASTM, BOCA, BICSI, EIA, IEEE, MI-OSHA, NEMA NESC, NFPA, OSHA, TIA, UL, and any other applicable industry standard(s).
- b. All Traffic Control needed to perform any and all portions of the work is the responsibility of the Contractor and shall be included in the cost, regardless of the number of traffic control mobilizations and setups required.
- c. Any damage to and not limited to: landscaping, private property, University of Michigan property, roads, curb and gutter, sidewalk, or existing utilities shall be repaired by the Contractor and/or any their sub-contractor(s) immediately at no cost to the project.
- d. The Contractor shall confine work to ROW property at all times. At no time, shall the Contractor enter private property, University of Michigan property, or perform any work not authorized by the City of Ann Arbor.
- e. The Contractor is responsible for locating all existing underground services including:
 - a. Electric, gas, telephone, data, water, and sewer prior to beginning any underground work. Coordination and compliance with Miss Dig are required.
- f. The Contractor will provide experienced installers who are licensed or certified to install Corning fiber manufactured material.
- g. The Contractor is required to facilitate inspections of work with City of Ann Arbor and the City's designated representative (design, engineering services contractor) that is providing construction oversight under a separate contract. Any deficiencies revealed during inspections by City and/or designated representatives of the City of Ann Arbor, are the sole responsibility of the Contractor to resolve.
- h. When construction is completed, the Contractor shall perform continuity testing of optical fibers using OTDR and industry standards for testing. Refer to Section "Acceptance and Testing" for requirements.
- i. The Contractor shall install necessary lighting protection in accordance with aforementioned standards.
- j. Bonding on aerial Network segments is required per AT&T and DTE pole attachment agreements. The Contractor must be familiar with AT&T and DTE pole attachment requirements.

- k. Copies of the City's pole attachment agreements with AT&T and with DTE will be provided to the Contractor upon award of the contract.
- l. Grounding for underground Network segments is required at every splice enclosure with a minimum of 8 (eight) feet of grounding rod. Grounding rods must meet applicable industry standard specifications.
- m. The Contractor must ensure adequate clearance exists between proposed fiber build and other utilities, ground, rail, roads, and water. At a minimum the Contractor is required to build conforming to NESC codes.
- n. The Contractor is also responsible to verify local utilities do not have more stringent clearance codes.
- o. The Contractor is responsible for adhering to all right-of-way and utility permitting terms and conditions as set forth in each right-of-way permit.
- p. Any construction changes must be pre-approved by the City of Ann Arbor and the City of Ann Arbor's design and planning contractor before commencing with said change. Redline edited drawings in AutoCad format will be required to document any approved changes.
- q. If deficiencies and/or non-compliance issues are discovered by the City of Ann Arbor Project Manager or the City of Ann Arbor's design and planning contractor the Contractor is responsible for the correction.
- r. The Contractor is responsible for all jobsite cleanup and for removal of all spent fiber reels and other materials used during construction.
- s. Construction will be subject to periodic inspections by Corning and the construction Contractor must comply with any modifications made by Corning in order for the City to maintain its Corning warranty.

C. Construction Restoration

- a. The Contractor is responsible for the restoration of the work area, including landscaping, to its original condition after work is complete. Surrounding area must be filled, leveled, and compacted. If grass restoration is required, contractor must apply seed or hydro seed. If work cannot be completed due to unseasonal conditions, the work will be completed when feasible and within the 1-year warranty period. Payment for projects with outstanding work due to unseasonal conditions will be negotiated on a per project basis. An active project punch list of items will be documented and tracked by the City of Ann Arbor Project Manager until all work has been completed.
- b. If potholing is required in sidewalk concrete the entire concrete slab must be restored, not just the pothole area.

D. Utility Engineering Fees and Permits

- a. City Right-Of-Way utility fees will be paid directly by the City of Ann Arbor. Contractors are responsible to coordinate efforts with the utilities involved.

E. Make Ready Fees

- a. Make ready fees will be paid directly from the project budget. Contractors are responsible to coordinate efforts with utilities involved.

F. Cable Pulling

- a. Install cable specified in the Design through existing or new 3" (minimum) City-owned conduit.
- b. Lateral connections will be spliced into the main fiber ring and will be terminated at a fiber distribution unit located at each location or predetermined termination point.
- c. Install the cable such that the optical and mechanical characteristics of the fiber are

- not degraded.
- d. The Contractor must comply with the manufacturer's recommended installation temperature, pulling tension and bend radius.
 - e. Cables must not violate the minimum bend radius or the maximum tension, both during and after installation. Corner rollers (wheels), if used, must not have radii less than the minimum installation bending radius of the cable. A series array of smaller wheels can be used for accomplishing the bend if the cable manufacturer specifically approves the array.
 - f. Use a clutch device to ensure the allowable pulling tension is not exceeded if the cable is pulled by mechanical means. Also, attach a strain gauge to the pulling line at the cable exit location, and at a sufficient distance from the take-up device such that the strain gauge can be read throughout the entire cable pulling operation.
 - g. Cables should be fed directly in by hand or over large diameter bends to prevent kinks, small bends, sharp edges, and crossovers. Cable should also be fed out of each pull box in a fashion that minimizes bends. Sufficient slack should be left so that each cable may be trained to its final location free of stress and completely clear of hand-hole openings.
 - h. The pulling tension should be continuously monitored to assure that the maximum recommended load is not exceeded. If the expected loads are close to maximum, additional pull boxes should be considered and/or the use of lubricants compatible with the outer jacket material of the cable.
 - i. Use entry guide chutes to guide the cable into the pull-box conduit ports.
 - j. Only lubricants approved by the cable manufacturer are permitted. Wipe the exposed cable in a pull box, junction box, or cabinet clean of cable lubricant with a cloth, after the cable has been installed.
 - k. Fiber optic cable ends must be sealed to prevent the entry of water.

G. Cable Lubricant

- a. For new conduit, lubrication of the conduit before pulling is required— particularly if there are several bends.

H. Cable Splicing

- a. All splices must be fusion splices. Splices shall conform to ANSI/TIA/EIA standards.
- b. All fusion splices will have with a maximum loss of < 0.05 dB unidirectional loss using 1550 nm optical source, a maximum bi-directional average loss of <0.15 dB using 1550 nm optical source.
- c. Similarly, a maximum loss of < 0.3 dB unidirectional loss using 1310 nm optical source, and a maximum bi-directional average loss of <0.20 dB loss using a 1310 nm optical source, shall be achieved. Testing must use industry standard TIA-472D000-B and Measurement Method FOTP78. Refer to section "Acceptance and Testing" for specific requirements on testing.
- d. Each spliced fiber must be packaged in a heat shrinkable splice protection sleeve with strength member. The protection sleeve must cover the splice any bare fiber stripped of its coating. The use of RTV or silicone is strictly prohibited.

I. Labeling and Identification

- a. Identification labels must be supplied by the Contractor and installed by the Contractor(s) on the fiber in each hand-hole and at every point of attachment on utility poles per specifications from the pole owner, per the utility pole attachment agreements, and the City of Ann Arbor requirements listed below.
 - a. Aerial Cables – The Contractor is responsible for supplying and installing

aerial cable markers per Utility company specifications and/or pole attachment agreements.

- b. Underground Cables and Splice Cables – The Contractor is responsible for supplying and installing underground cable markers identical to the City's original fiber network construction to identify cable ID or Code, cable type, strand count and distance in feet.

J. Aerial Construction Requirements

- a. Grounding – The Contractor is responsible to ensure proper grounding, bonding, and that lightning protection is installed according to standards.
- b. Aerial Cable - All cable must be supported by support a strand (i.e., messenger cable) per industry standards.
- c. Aerial Cable Slack Requirements - 150-foot maintenance loops are required every 1,500 feet, as specified in engineering drawings. Maintenance loops must be dressed and stored properly. All slack shall be physically protected.
- d. Provide aerial service loops with snowshoes in various locations (as specified on engineering drawings) to provide sufficient slack in the event that a repair becomes necessary.
- e. Aerial Cable Lashing - All cable lashing will be double-lashed with 0.038 inches, Type 302 austenitic, non-magnetic and thermally non-hardening stainless steel with a break strength of at least 115 pounds or 0.045 inch, Type 430 Magnetic, thermally non-hardening ferritic stainless steel with a break strength of at least 125 pounds.

K. Underground Construction Requirements

- a. All fiber buried with directional boring must be a minimum of 4 (four) feet below grade.
- b. Newly installed conduits will be clear of all dirt, foreign matter, water, and debris before cable is installed.
- c. Conduit - For FON segments requiring new conduit installation that conduit must be 3 (three) inch diameter Dura-Line Smooth-wall HDPE Conduit or an equivalent. Provide as an option, conduit with Silicore-TM permanently lubricated lining so greater pulling and jacking distances can be achieved where necessary.
- d. Cables that are run through existing conduit cannot not go through the center of an existing slack loop of cable (fiber/electric/etc.) so as to render the existing slack loop useless, or so that it could not be taken out of the handhole and uncoiled.
- e. Conduits added to existing handholes, or new handholes, that enter through the side wall need to be concrete sealed so that mud/dirt does not fill the handholes over time. This includes locations where handholes are upgraded with existing infrastructure in place. All conduit entries and handhole cuts need to be sealed up.
- f. Upward angled conduits in handholes need to be at least 8 inches from the bottom of the lid – or some value similar to that to allow bend radius of cables.
- g. When conduits enter the handhole lower than the bottom lip, they need to have elbows, or sweeps, that get them above the bottom lip. This prevent dirt from getting in and plugging the conduit.
- h. Above Ground Markers - Above ground markers must be installed ~500 feet or a lesser line-of-site along burial path, depending on Network segment geography.
- i. Cable Slack Requirements - Throughout the underground cable plant, pull and store excess cable slack at designated intervals per the engineering drawings.
- j. The Contractor must provide adequate drainage for handholes using a stone-based material.
- k. All underground work needs to be inspected by the City before acceptance. The Contractor is responsible for correcting all deficiencies in their work.

L. Above-Ground Cabinet Construction

- a. Install Corning Cross-Connect Cabinets according to manufacturer's specifications and the City of Ann Arbor's specifications.

M. Materials Specifications

- a. ALL materials required to complete construction will be supplied and installed by the Contractor, including the following materials:
- b. Fiber Optic Cable
 - a. All fiber optic cables must be indoor/outdoor, plenum-rated cables for inter-building and intra-building backbones in aerial, duct, and riser applications. Deliver the cable on reels without splices. Ensure both ends of the cable are sealed to prevent moisture ingress.
- c. 144F Single Mode Fiber Cable
 - a. Provide CommScope® Outside Plant Single Jacket/Single Armor, Gel-Free, Dry-Lock, Outdoor Stranded Loose Tube Cable (Part # D- 144-LA-8W-F12NS), or an approved equivalent.
- d. 48F Single Mode Fiber Cable
 - a. Provide CommScope® Outside Plant Single Jacket/Single Armor, Gel-Free, Dry-Lock, Outdoor Stranded Loose Tube Cable (Part # D- 048-LA-8W-F12NS), or an approved equivalent.
- e. Communications Tracer wire
 - a. Encore Wire Corporation Tracer Wire HMWPE 45 MIL 600 Volt (UL) DIR – 14AWG
- f. Cable Connectors
 - a. LC connectors are required, providing a small form ceramic ferrule with 1.25 mm ferrule that are easily terminated with any adhesive.
- g. Cable Risers
 - a. FREEDOM tight-buffered cable, risers, 48F and 144F, single-mode (OS2), by Corning Optical Communications, or an approved equal.
 - b. Risers need to be galvanized rigid conduit for the first 10' from grade going up. Then, Schedule 80 PVC is acceptable from that point going up the pole to the aerial attachment location.
- h. Splice Closures
 - a. Corning Optics Splice Closure Fiber (SCF) or equivalent, preloaded splice trays that are aerial and underground rated allowing up to 288 single fiber splices. The closure must provide ports for uncut feeder cables and ports for drop cables. The closure, in canister configuration, with a quick-seal mechanical seal port, must allow for rapid and easy addition of cables after initial installation is complete.
- i. Conduit
 - a. Three-inch Dura-Line Smoothwall HDPE Conduit or an equivalent is required for each Network segment needing newly installed underground conduit. Dura-Line is made to Industry standards for power and communications applications. It can be installed using open trench methods, HDD (Horizontal Directional Drilled) plowed, or pulled into conduit. Price Smoothwall HDPE conduit with optional Silicore™ permanently lubricated lining, Smoothwall, so ducts can be maximized for greater pulling and jetting distances, reducing the coefficient of friction over standard HDPE conduit.

- j. Handholes
 - a. Quazite Handholes. All Handholes at splice locations and underground slack loop locations are 30"x48" double deep, cover test load ratings of 15,000/22,500, box test load rating of 22,500/33,750, minimum.
- k. Closet Connector Housing (CCH) and Patch Panels
 - a. Several locations will require CCHs and patch panels. CCHs provide interconnect or cross-connect capabilities between outside plant, riser or distribution cables and opto-electronics. See below for CCH specifications:

Closet Connector Housing (CCH) and Patch Panels Specifications		
Item	Supplier	Description
CCH-CS12-A9-POORE	Corning Optical	Cassette: CCH Pigtail Splice Cassette, 12 F, LC UPC duplex, Single-mode (OS2), single-fiber (250 um)
WIC-012	Corning Optical	Wall Mount Transition Splice: Wall-Mountable Interconnect Center (WIC), holds two WIC connector panels
WCH-02P	Corning Optical	Wall Mount Panel: Wall-Mountable Closet Housing (WCH), holds 2 CCH connector panels/cassettes
CCH-01U	Corning Optical	Rack Mount Panel: Closet Connector Housing (CCH), one rack unit, holds two CCH connector panels
M67-110	Corning Optical	Transition Splice Tray: Splice Tray, mass fusion splices or heat shrink fusion splices, 0.4-in, six mass fusion splices or 12 heat-shrink fusion splices

N. Acceptance and Testing

- a. The Contractor is required to construct per detailed engineering drawings that will be provided by the City of Ann Arbor after the Design and Planning is completed.
- b. Any deviation from the original design must be requested by the Contractor and approved by the City of Ann Arbor before the work is done.
- c. Deviations to splicing and/or site location terminations must be pre- approved by the City of Ann Arbor and then appropriately documented with red-line drawings and supporting documentation.
- d. All testing results are to be provided and accepted by Corning in order for the City to maintain its Corning warranty.
- e. The Contractor(s) is required to test the fiber after installation, including all splicing and termination, after completion. Test the fiber from end to end through any interconnections to ensure that the path is properly installed and that polarization and routing are correct and documented. Out of specification deficiencies identified must

- be properly corrected per industry standards.
- f. For each network segment or fiber optic link, including spare fibers, determine whether the optical loss is within the limits permissible under applicable testing industry standards below.
 - g. A link is defined as a continuous segment of fiber between one connector and another connector.
 - h. When testing links that do not have connectors on both ends, the Contractor shall use a mechanical splice to attach a pigtail to the unterminated fiber for the duration of the test.
 - i. The following industry testing standards shall be used to verify proper construction and installation:
 - a. Testing industry standard FOTP-78 (Fiber Optic Test Procedure) will be applied to all fiber splicing and unused fibers within the following parameters using the bidirectional method established by FOTP-78, as follows:
 - 1. All fusion splices will have less than 0.05 dB loss using 1550 nm optical source. The test will be bi-directional with no splice loss being greater than 0.05 dB. Since the test is bi-directional, the splice loss refers to the final loss value obtained once the test results are averaged at each splice; none being greater than 0.05 dB.
 - 2. Terminations will have loss less than 0.4 dB using 1550 nm and 1310 nm optical source. Testing methods will apply industry standard TIA-472D000-B Section 8.2.1 (Telecommunications Industry Association) using Optical Time Domain Reflectometer (OTDR) as the measurement device.
 - 3. No manual calculations of bi-directional averages are allowed.
 - 4. Record and document all splice losses and termination losses and submit to the City of Ann Arbor for approval.
 - b. Perform OTDR testing which captures optical attenuation on all fibers after post installation. Optical attenuation performance shall meet or exceed standard TIA472D000-B Section 8.1 for single-mode fiber. The maximum optical attenuation loss cannot exceed 0.25 dB/km at 1550 and 0.35 dB/km 1310 nm testing.

O. Splice Testing Documentation

- a. Documentation of the fiber optic cable plant (test results) should follow ANSI/TIA/EIA-606 Administrative Standard for Telecommunications infrastructure of commercial Buildings. This documentation shall include the insertion loss data.

P. Documentation

- a. All CommScope® fiber optic cables have a unique lot number shown on the shipping spool. It is important that this number be recorded. Cable pre- and post- installation test data should be recorded in an orderly and logical fashion.
- b. Prepare diagrams showing all the links tested in this project. On each line representing a link, show the maximum allowable loss and the actual loss. Ensure the actual loss is the one measured after all corrective actions have been taken.
- c. Provide an OTDR trace for all fibers to document the location of the sources of optical loss in the cable (refer Acceptance and Testing).
- d. All Red-line drawings, field notes, documentation, submitted to City of Ann Arbor in a format acceptable to the City of Ann Arbor (e.g., Spatially-referenced AutoCad files, GIS shapefile, etc.).
- e. Schematics and detailed circuit diagrams of all splice locations shall be provided in an acceptable format to the City of Ann Arbor.

- f. All fiber testing documentation must be provided to the City and Corning.

Q. Warranty and Workmanship

- a. The Contractor warrants that all materials furnished shall be new, and free from defects.
- b. The Contractor warrants that the materials and workmanship used in the construction are as herein specified, and shall provide all material and labor required to make good any defects due to faulty materials or workmanship which become apparent within a one-year period from project completion.
- c. The equipment and materials manufacturers are expected to recognize that they are responsible for the failure of their products to perform in accordance with data furnished by them or their authorized representatives, as well as misrepresentations of such data.
- d. When the products have been installed in accordance to the manufacturer's published or written instructions and recommendations, and such products fail, the Contractor is responsible for replacement of the products and all associated work and materials without additional cost to the City of Ann Arbor.
- e. Contractor shall obtain and assign to the City of Ann Arbor warranties from the manufacturers of the materials it installs.
- f. Damage by vandals, fire, traffic accidents or "acts of God" are excluded from labor and materials warranty.

R. Project Supervision

- a. The Contractor shall designate a full-time Project Supervisor to act as the Contractor's agent/representative, and to be responsible for scheduling and coordination of all subcontractors, suppliers, other governmental agencies, and all public and private utility companies.
- b. The Project Supervisor shall work harmoniously with the Engineer, the City, the public, subcontractors, and all other parties typically involved with work of this nature.
- c. The Project Supervisor shall be responsible for all of the work of all of the Contractor, subcontractor and/or supplier work forces.
- d. The Project Supervisor shall submit to the City an updated, detailed schedule of the proposed work on a schedule determined at the initial project kickoff meeting.
- e. The Project Supervisor and all subcontractors shall attend a progress meetings to discuss the work. Upon the completion of each meeting, the Project Supervisor shall prepare and distribute, to all present, a written summary of the meeting's minutes. Those in attendance shall review the minutes and, if necessary, comment on any deficiencies or errors prior to or at the next scheduled progress meeting.
- f. A detailed project plan utilizing Microsoft Project will be supplied for all projects.

**EXHIBIT B
COMPENSATION AND FEE PROPOSAL FORM**

General

Contractor shall be paid for those Services performed pursuant to this Agreement inclusive of all reimbursable expenses (if applicable), in accordance with the terms and conditions herein. The Compensation Schedule below/attached states nature and amount of compensation the Contractor may charge the City:

Project: RFP No. 22-04 - Architect/Engineering for the Ann Arbor Ypsilanti Broadband Conduit Project.

Consultant's Name: _____

Notes:

1. All Consultants shall provide a pricing for all RFP items specified below based upon fixed price or a cost reimbursement with an agreed maximum in order to be eligible..
2. The City, at its sole discretion, may elect to delete any portion of the work delineated below. Work shall be determined based upon the availability of funds.
3. Any item not provided in the following list shall be considered incidental.
4. Contract shall be awarded based on the base bid or any combination of a base bid and alternate bid in any manner the City believes to be in its best interest.
5. The Consultant agrees to complete the Project and all related work, as specified in the Scope of Work with RFP 22-04.

Item	Description	Staff Name, Staff Title	Fixed Amount (\$)	Cost Reimbursement w/agreed Maximum (\$)
1	Project Management			

2	Network Route Design			
3	Site Work			
4	Engineering Design			
5	Documentation and Deliverables			

6	Construction Oversight for Phase II			
7	Permitting for "Make Ready" Construction			
8	Other – Please Describe any other work requiring cost estimate.			

Signature of Authorized Representative of Bidder

EXHIBIT C INSURANCE REQUIREMENTS

From the earlier of the Effective Date or the Commencement Date of this Agreement, and continuing without interruption during the term of this Agreement, Contractor shall have, at a minimum, the following insurance, including all endorsements necessary for Contractor to have or provide the required coverage.

A. The Contractor shall have insurance that meets the following minimum requirements:

1. Professional Liability Insurance or Errors and Omissions Insurance protecting the Contractor and its employees in an amount not less than \$1,000,000.
2. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:

Bodily Injury by Accident - \$500,000 each accident
Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit
3. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the following minimum limits of liability are required:

\$1,000,000 Each occurrence as respect Bodily Injury Liability or
Property Damage Liability, or both combined
\$2,000,000 Per Project General Aggregate
\$1,000,000 Personal and Advertising Injury
4. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
5. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.

- B. Insurance required under A.3 and A.4 above shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City for any insurance listed herein.
- C. Insurance companies and policy forms are subject to approval of the City Attorney, which approval shall not be unreasonably withheld. Documentation must provide and demonstrate an unconditional and unqualified 30-day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s), email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions, which may be approved by the City in its sole discretion; (c) that the policy conforms to the requirements specified. Contractor shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. If any of the above coverages expire by their terms during the term of this Agreement, the Contractor shall deliver proof of renewal and/or new policies and endorsements to the Administering Service Area/Unit at least ten days prior to the expiration date.