

Special Award Conditions

Award Number: NT10BIX5570009

Amendment Number: 5

1) EA SAC (Compliance with Environmental Protocols and Measures)

Special Award Condition

Compliance with Environmental Protocols and Measures

Merit Network, Inc.

REACH Michigan Middle Mile Collaborative Project Round I

This BTOP Grant Special Award Condition establishes requirements applicable to the Merit Network, Inc. (Merit) implementation of the Rural, Education, Anchor, Community, and Healthcare (REACH) Michigan Middle Mile Collaborative Project Round I. The funding of the Grant is dependent on compliance with the provisions of this Special Award Condition.

Post-award environmental reviews of the Project included consultation with regulatory agencies related to the protection of biological and historic and cultural resources. These consultations identified specific protocols or environmental protection measures. These protocols or protective measures may be either required or recommended to be included in the implementation of the Project to minimize potential impacts to biological resources and effects on historic and cultural resources. The protocols and measures are listed below.

Note that this Special Award Condition does not distinguish requirements identified during the consultations from recommendations that were also provided. Merit shall implement the identified protocols and measures without regard to this distinction and advise the Federal Project Officer (FPO) immediately if any issues arise related to the ability to fully comply with any requirement or recommendation listed below.

For each protocol or measure listed, Merit shall include the following information in its periodic report to the FPO administering the grant:

1. Specifically where and when the protocol has been used or a measure has been implemented during the reporting period, and
2. Whether full compliance with the protocol or measure was achieved.

The FPO may, if they determine necessary, require additional information to ensure compliance with the protocol or measure. If, at any time, Merit has questions or requires clarification regarding any of these protocols or measures, they shall notify the FPO, who will coordinate with the appropriate regulatory authority to provide the necessary information.

Biological Resource Protection Protocols and Measures

Merit consulted with the U.S. Fish and Wildlife Service (USFWS) East Lansing Field Office regarding potential Project impacts on biological resources for the Round I Project, including post-FONSI route changes (documented in response letters from USFWS dated July 12, 2010 and October 25, 2011, respectively). During these consultations, the USFWS

concluded that, based on the information and protective measures provided by Merit, the Project is not likely to adversely affect the Karner blue butterfly (*Lycaeides melissa samuelis*), Michigan monkey flower (*Mimulus michiganensis*), Indiana bat (*Myotis sodalis*), gray wolf (*Canis lupus*), Hungerford's crawling water beetle (*Brychius hungerfordii*), copperbelly water snake (*Nerodia erythrogaster neglecta*), and eastern massasauga rattlesnake (*Sistrurus catenatus*) known to occur within the Project area. Accordingly, Merit will implement the following best management practices (BMPs) and avoidance measures:

1. Merit will limit construction activities and equipment to the road shoulder between the edge of pavement and existing poles in order to minimize impacts to the Karner blue butterfly, and work will not be conducted in areas where wild blue lupine (*Lupinus perennis*) is present.
2. Merit will coordinate with Michigan Department of Transportation (MDOT) for underground fiber installation within potential habitat for the Karner blue butterfly where wild blue lupine is not present.
3. Merit will cross all wetlands, waterways, and drainage ways either by using aerial installation or directional drilling techniques in order to minimize impacts to the Michigan monkey-flower and northern copperbelly water snake.
4. Merit will not remove any woody vegetation, including trees, as part of this Project.
5. Merit will have a qualified specialist train the field-staking and construction crews to identify the wild blue lupine, Karner blue butterfly, and eastern massasauga rattlesnake. If the eastern massasauga rattlesnake is found within proposed construction or staging areas, care will be taken to avoid and prevent harm to this species during construction.
6. If Maple River is crossed underground, Merit will utilize directional drilling and bore pits will be placed in upland areas on either side of the river to minimize impacts to the Hungerford's crawling water beetle.

Historic and Cultural Resource Protection Protocols and Measures

NTIA initiated consultation with the Michigan State Housing Development Authority (State Historic Preservation Office [SHPO]) regarding potential Project impacts on cultural and historical resources for the Project. In a letters dated June 16, 2010 and September 8, 2011, the Michigan State Historic Preservation Office (SHPO) concluded that the Project, including post-FONSI route changes, will have no adverse effect on historic properties within the area of potential effect (APE), provided that the following stipulations are met:

1. Per the attached commitment letter, Merit will follow the recommendations described in the SHPO letter dated September 8, 2011. These requirements include:
 - " Merit will contact the SHPO for further review if the following proposed routes deviate from those shown on the maps provided to the SHPO on August 16, 2011. These include:
 - i. South Corridor
 1. Monroe (Sht. S-1)
 2. Petersburg (Sht. S-3)
 3. Bronson (Sht. S-20)

4. Three Rivers (Sht. 24-25)
5. Berrien Springs (Sht. S-30)
6. St. Joseph/Benton Harbor (S-32)
- ii. Central Corridor
 1. Gaylord (Sht. C-24)
- iii. East Corridor
 1. Midland (Sht. E- 1,2)
 2. By City (Sht. E-4)
 3. Oscoda (Sht. E-16)
- iv. West Corridor
 1. Hamilton (Sht. W-11)
 2. Montague (Sht. W-21)
 3. Manistee (Shts. W-31,32)
 4. Bear Lake (Sht. W-34)
 5. Mackinaw City (Sht. W-63, 64)
- v. Luther Lateral
 1. Townsend Lake (Sht. L-4)
- vi. Charlevoix Laterals
 1. Charlevoix (Shts. ECL 3, WCL 3)

" Clearance for the Coldwater (S-18) fiber route is for aerial installation on existing utility poles only. If underground installation is necessary, this method is approved only in the road right-of-way.

" Berrien Springs (Sht. S-30) Merit will avoid the known site as shown on the map provided to the SHPO on August 16, 2011.

" Mount Pleasant (Sht. C-1) Merit will avoid the Indian School site northwest of Mt. Pleasant.

" Muskegon West (west of route on Sht. W-18) Merit will avoid known sites located in the vicinity of Muskegon Lake should the route be extended to this area.

2. If any cultural material is discovered during construction, the SHPO will be notified immediately and all activities halted until a qualified archaeologist assesses the cultural remains.

On May 14, 2010, NITA notified 22 Native American tribes of the Project through the Tower Construction Notification System (TCNS). Merit also followed up with interested tribes, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, the Shawnee Tribe, and the Wyandotte Nation, regarding post-FONSI route changes. On November 21, 2011, the Ketegitigaaning Ojibewe Nation Tribal Historic Preservation Officer (THPO) (Lac Vieux Desert Chippewa) issued a letter stating that the Project will have no adverse effects to historic properties present in the area of potential effect (APE). In correspondence dated October 27, 2011, the Shawnee Tribe stated that they do not have any concern with the revised Project route. The Wyandotte Nation has not responded to the follow-up notification.

1. If any human skeletal remains or protected Native objects are uncovered during construction, construction will stop immediately, and appropriate authorities, including law enforcement agencies, the SHPO, and interested Tribes, are informed.

2. Should any Tribe express any specific cultural resource concerns, Merit will notify NTIA and participate in consultation to resolve their concerns.
3. Merit should contact the Keweenaw Bay Indian Community, per their original TCNS request, regarding the proposed route/project changes.

Other Resource Protection Protocols and Measures

1. Merit will notify the MDOT if changes to the project scope, construction, or installation methods may result in impacts to endangered species or their habitats.
2. Merit will complete all applicable Special Use Permitting actions with the USDA-Forest Service prior to beginning construction on National Forest lands.

Mitigation Measures identified in the Environmental Assessment as being required to avoid potential significant environmental impacts:

None.