

**EASTERN SHORE OF VIRGINIA BROADBAND AUTHORITY
(ESVBA)
4174 Lankford Highway
Exmore, VA 23350**

INVITATION FOR BID No. 2022-004

Project: Aerial Network Construction

PROJECT DETAILS

Project Owner: Eastern Shore of Virginia Broadband Authority (ESVBA)
4174 Lankford Highway
Exmore, VA 23350
(757) 414-0304
info@esvba.com

Project Description: Aerial Network Construction

Project Execution Location: Accomack & Northampton County

Opening Date: October 5, 2022

Opening Time: 2:00 PM EST **Bid Bond:** \$50,000.00

Opening Location: 4174 Lankford Highway, Exmore, VA 23350

----- Bidder's Signature -----

The Bidder shall sign and date the section below to attest that the bidder has read, understands, and agrees to all terms, conditions, drawings, and specifications set forth in this Invitation for Bid, unless otherwise stated in writing and submitted with the bid package.

Bidder's Name: _____

By: _____

Signature: _____

Title: _____

Date: _____

CONTENTS

| | |
|---|----|
| SECTION 1: PUBLIC NOTICE | 5 |
| SECTION 2: INSTRUCTIONS TO BIDDERS..... | 6 |
| I. General Contract Terms and Conditions | 6 |
| 1. Tax Exempt | 6 |
| 2. Payment | 6 |
| 3. Monthly Performance..... | 6 |
| 4. Compensation | 7 |
| 5. Incentive-Award fee | 7 |
| 6. Default | 8 |
| 7. Applicable Laws and Courts | 8 |
| 8. Award | 9 |
| 9. Anti-Trust | 9 |
| 10. Ethics in Public Contracting - §2.2-4367 | 9 |
| 11. Debarment Status | 9 |
| 12. Anti-Discrimination..... | 10 |
| 13. Insurance | 10 |
| 14. Termination | 10 |
| 15. Hold Harmless Provision..... | 10 |
| 16. Changes to the Work | 11 |
| 17. Contractual Claims Procedure..... | 11 |
| 18. Loss or Damage in Transit | 11 |
| 19. No Waiver | 12 |
| 20. Engineer..... | 12 |
| 21. Ownership of Documents | 12 |
| II. Specific Bid Instructions | 12 |
| 1. Envelope Identification | 12 |
| 2. Bid Submittal..... | 12 |
| 3. Submission Requirements | 13 |
| 4. Bid Bond..... | 14 |
| 5. Pre-Bid Conference and Clarification Questions | 14 |
| 6. Bid Opening | 14 |
| 7. Tied Bids | 14 |
| 8. Withdrawal, Modifications, and Amendment of Bids..... | 14 |

| | | |
|--|---|----|
| 9. | Pricing Errors | 15 |
| 10. | Intentionally deleted | 15 |
| 11. | Announcement of Award | 15 |
| 12. | Addenda..... | 15 |
| 13. | Acceptance of Bids..... | 16 |
| 14. | Changes, Additions, Deletions | 16 |
| 15. | Proprietary Information and Trade Secrets | 16 |
| 16. | Delivery and Availability | 16 |
| 17. | Defective Items..... | 16 |
| 18. | Use of Brand Names..... | 16 |
| 19. | Inspection of Site and Conditions of Work | 17 |
| 20. | Pre-Bid Site Meeting | 17 |
| SECTION 3: GENERAL SPECIFICATIONS..... | | 18 |
| I. | Summary of Work..... | 18 |
| 1. | Statement of work | 18 |
| 2. | Contractor Duties | 19 |
| 3. | Engineering | 19 |
| 4. | Construction | 20 |
| 5. | Ordinances & Codes..... | 20 |
| 6. | Definitions | 20 |
| 7. | Submittals..... | 21 |
| 8. | Temporary Facilities..... | 22 |
| 9. | Products and Materials | 22 |
| 10. | Traffic Control..... | 22 |
| 11. | Daily Project Clean Up Requirements | 23 |
| 12. | Permits..... | 23 |
| 13. | Project Meeting Requirements | 24 |
| 14. | Inspection and Acceptance | 24 |
| 15. | Supervision and Superintendents | 24 |
| 16. | Environmental Conditions..... | 24 |
| 17. | Project General Conditions | 24 |
| 18. | Warranty | 25 |
| 19. | Record Documents | 25 |
| 20. | Project Closeout | 25 |

| | | |
|--|--|----|
| 21. | Payment | 26 |
| 22. | CONSTRUCTION SPECIFICATIONS | 26 |
| SECTION 4: AERIAL FIBER OPTIC CABLE INSTALLATION | | 28 |
| 1. | Specific Practices | 28 |
| SECTION 5: BID FORMS, UNIT PRICE, AND SAMPLE DESIGNS | | 31 |
| I. | Schedule of Bid Price | 31 |
| | Table 1: Aerial Plant Operations | 31 |
| | Table 2: Additional Labor/Support Operations | 32 |
| | Table 3: Additional Equipment Operations..... | 32 |
| | Cable Placing Samples and Rate Elements for Samples | 33 |
| | Form 1: Bidder Questionnaire | 36 |
| | Form 2: Bidder Compliance Statement | 39 |
| | Form 3: Certification of Bidder Regarding Debarment by Agency of the Commonwealth of Virginia..... | 40 |
| | Form 4: Bid Bond..... | 41 |
| | Form 5: Performance and Payment Bond (not used) | 43 |
| | Form 6: Notice of Award | 44 |
| | Form 7: Notice to Proceed..... | 45 |
| | FORM 8: REFERENCE FORM | 46 |
| SECTION 6: FORM OF AGREEMENT | | 1 |

SECTION 1: PUBLIC NOTICE

The Eastern Shore of Virginia Broadband Authority is accepting sealed bids until: **2:00 PM EST, October 5, 2022**, from qualified firms for the aerial portion of the planned expansion of the ESVBA’s fiber optic network in Accomack and Northampton Counties in the Commonwealth of Virginia. The ESVBA’s Board of Directors intends to undertake an expansion of approximately 250 miles in addition to the ESVBA’s normal network expansion. It is anticipated that approximately 25% of this expansion will consist of underground work, and the remaining portion will be aerial. The contract arising from this solicitation will include aerial installation and additional labor/equipment and any additional support required for aerial operations. This IFB is a Cost-Plus-Award-Fee (CPAF). However, it can be viewed as an “as-needed” contract as no minimum amounts of work or purchases of service are guaranteed.

A pre-bid conference will be held at 4174 Lankford Highway, Exmore, Virginia 23350. Bids shall be mailed or hand delivered to: Eastern Shore of Virginia Broadband Authority (ESVBA), 4174 Lankford Highway, Exmore, Virginia 23350; (757) 414-0304, before **2:00 PM EST on October 5, 2022** at which time they will be publicly opened and read.

Consistent with § 54.1-1112, Code of Virginia, bidders shall provide evidence of proper licensure to undertake the Project before their bid may be received and considered. No bid may be withdrawn for a period of 60 days after the date of bid opening except in accordance with Section 2.2-4330 of the Code of Virginia, as amended. ESVBA has selected the first procedure for the withdrawal of bids as set forth in the sections of the Code as noted above.

NOTE: The ESVBA is an equal opportunity employer in accordance with the Code of Virginia, §2.2-4343.1 The ESVBA is committed to increasing procurement opportunities for small and micro businesses, including those owned by minorities, women, or disabled veterans.

PROCUREMENT CALENDAR

| | |
|--|--|
| In-person Pre-Bid Conference: | September 22, 2022 2:00 PM EST 4174 Lankford Highway Exmore, VA 23350 |
| Clarification Questions Deadline: | No later than September 28 2022, 2:00 PM EST |
| Bid Submission Deadline: | October 5, 2022, 2:00 PM Eastern Shore of Virginia Broadband Authority 4174 Lankford Highway Exmore, VA 23350 (757) 414-0304 |
| Bid Bond: | \$50,000 |

SECTION 2: INSTRUCTIONS TO BIDDERS

I. General Contract Terms and Conditions

The following General Terms and Conditions will be incorporated into the Contract Agreement executed between ESVBA and the successful bidder unless the bidder specifically notes an exception thereto with proposed alternative terms.

1. Tax Exempt

The ESVBA is exempt from State Sales Tax and Federal Excise Tax. Tax Exemption Certificate shall be furnished upon request.

2. Payment

Invoices for work performed and accepted shall be submitted by the contractor directly to ESVBA within 15 days of work completion or on a bi-weekly basis for incremental work. All invoices shall show the applicable job number, as-built data for any completed work, and be billed using billable line items from Tables 1 and or 2 below.

The ESVBA shall pay the invoices within sixty (60) days from receipt date of a correct invoice or acceptance of the services (whichever occurs second). If the ESVBA disputes all or any portion of an invoice, it shall be required to pay only the amount not in dispute. If bidder's invoice contains terms more favorable to the ESVBA, the ESVBSA may elect to pay on those terms.

The Contractor shall promptly pay all subcontractors such amounts due to them upon receipt of payments from ESVBA. Pursuant to Section 2.2-4354 of the Code of Virginia, the contractor covenants and agrees to:

- a) Within seven (7) days after receipt of any amounts paid to the Contractor under the Contract,
 - (i) pay any subcontractor for its proportionate share of the total payment received from the ESVBA attributable to the work under the Contract performed by such subcontractor, or
 - (ii) notify the Authority and the subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment and the reason therefor.
- b) Provide its federal employer identification number or social security number, as applicable, before any payment is made to the Contractor under the Contract; and
- c) Pay interest at the legal rate or such other rate as may be agreed to in writing by the subcontractor and the Contractor on all amounts owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the ESVBA for work performed by the subcontractor under the Contract, except for amounts withheld pursuant to subparagraph 2a. above.
- d) Include in its contracts with any and all subcontractors the requirements of a, b, and c above.

3. Monthly Performance

The ESVBA intends to expand its existing network in both the Counties of Accomack and Northampton, and reserves the right to award to multiple contractors as a result of this solicitation to the lowest responsive and responsible bidders meeting the requirements of the solicitation. Each successful contractor must demonstrate sufficient capacity and expertise to individually (or in collaboration with subcontractors) complete a minimum of 25-miles of underground construction

per month to meet its growing customer demands. Each successful contractor will independently be responsible for completion of required 25-miles per month (132,000 linear feet) and each will be subject to the bonuses and liquidated damages stated herein. The successful contractor will also be expected to provide emergency restoration operations as needed, and must have the capacity to promptly respond to emergencies as described herein. The ESVBA reserves the right to issue task orders to successful contractors in any manner deemed to be in ESVBA's best interests and in accordance with project buildout priorities.

4. Compensation

In order to be eligible for compensation at 100% of contractor's bid price on any task or job orders completed during a given month, the contractor must complete 100% of contractor's monthly target for linear feet of installed and accepted fiber optic cable and related facilities. Typically, the monthly target will be 25 miles/132,000 linear feet. This target may be adjusted downward by ESVBA based upon fluctuation of demand, availability of rights of way or other relevant considerations. Eligibility for 100% bid price compensation shall depend upon completed linear footage and will include installation of any related facilities at the required level of quality. Substandard or improper work shall not be eligible for compensation and will be remedied by contractor at the election of ESVBA. Progress payments will be made in accordance with Article 6 of the Contract.

5. Incentive-Award fee

Due to the critical need for timely buildout of the ESVBA system, the following incentive-based compensation structure shall apply:

- a. If the contractor satisfactorily completes work in excess of 115% of the monthly performance goal, contractor shall be compensated at 100% of the contractor's bid rates for the work satisfactorily completed, and shall be awarded an additional incentive payment equal to 5% of total compensation for that month's performance goal.
- b. If contractor satisfactorily completes at least 95% of the monthly performance goal, but does not exceed 115% of the monthly performance goal, contractor shall receive compensation at 100% of contractor's bid rates for the work satisfactorily performed, but contractor shall receive no incentive bonus.
 - i. In exceptional circumstances ESVBA may, in the exercise of ESVBA's sole discretion, award contractor full compensation or incentive bonus even though none is due under this paragraph, but in no event will bonus compensation be awarded for completion of less than 90% of the monthly performance goal.
- c. If contractor completes less than 95% of the monthly performance goal, contractor shall be compensated at 95% of contractor's bid rates for the work satisfactorily performed.
 - i. The parties understand and agree that the ESVBA will suffer loss and damages in the event that the minimum required linear cable footage is not satisfactorily installed, and agree that the reduction in contractor compensation constitutes a reasonable estimate of the damages ESVBA is likely to incur as a result of not meeting the required level of customer connections, such deduction being liquidated damages and not a penalty.
- d. The performance goal will typically be 25 miles/132,000 linear feet of cable installation per month, however if fewer than 25 miles/132,000 linear feet are available for work orders in a given month, the monthly performance goal will be defined as the successful completion

of all available installation or construction projects/task orders referred for such month. In general, ESVBA expects to be able to refer at least 25 miles/132,000 linear feet at the beginning of the contract, and expects to be able to continuously refer spans during the course of performance so that contractor will have sufficient spans available for installation at any given time to permit contractor to install 25 miles/132,000 linear feet each month. If at any time contractor determines that work available to contractor is insufficient to permit contractor to meet the monthly performance target, contractor shall notify ESVBA in writing of such fact. ESVBA shall, upon receipt of such notice, make a determination as to whether contractor's position as to available work is correct. If ESVBA agrees with contractor, ESVBA shall, within seven (7) business days, refer additional spans for installation to contractor to address contractor's shortage of work. If ESVBA disagrees with contractor's determination, ESVBA shall notify contractor within seven (7) business days and contractor may make a claim therefore as provided in paragraph 17 of the General Terms and Conditions. In the event that ESVBA agrees with contractor's determination that insufficient work exists for contractor to meet its monthly performance target, and ESVBA lacks available spans to refer to contractor, then ESVBA will adjust the performance target in proportion to the shortfall in available work, on a linear foot basis.

6. Default

In the case of default or breach by the Contractor or the failure of the Contractor to deliver the services in conformance with the specifications in the contract, the ESVBA shall give written notice to the Contractor specifying the manner in which the contract has been breached. If the ESVBA gives such notice of breach and the Contractor has not corrected the breach within fifteen (15) days of receipt of the written notice, the ESVBA shall have the right to immediately rescind, revoke or terminate the contract and in addition to any other remedies available at law to procure such services from other sources and hold the Contractor responsible for any and all excess cost occasioned thereby, including reasonable professional fees incurred by ESVBA, including but not limited to such architect, engineer, attorney or other consultant fees. In the event of default by ESVBA, Contractor shall proceed in accordance with Paragraph 17 (Contractual Claims Procedure). In case of failure to deliver goods or services in accordance with the contract terms and conditions, the ESVBA, after due written notice, may procure them from other sources and hold the bidder responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the ESVBA may have.

7. Applicable Laws and Courts

Any ESVBA contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its principles of conflicts of laws and any litigation with respect thereto shall be brought in the Circuit Courts of Accomack or Northampton Counties. The Contractor shall be responsible for compliance with all the laws of the Commonwealth of Virginia, all ordinances and regulations of the ESVBA and such other standards, codes and regulations having application to the goods or services provided. Without limitation, Contractor shall comply with all nondiscrimination laws and regulations of the Commonwealth, as well as all laws and regulations concerning the maintenance of a drug-free workplace.

8. Award

The contract shall be awarded to the lowest responsible and responsive bidder(s). Unless canceled or rejected, a responsive bid from the selected bidder(s) shall be accepted as submitted, except that if the bid from the lowest responsible bidder(s) exceeds available funds, and if, time or economic considerations preclude re-solicitation of work of reduced scope, the ESVBA Executive Director, or his/her designee, may, in accordance with the provisions of § 2.2-4318, negotiate with the apparent low bidder(s) to obtain a contract price within available funds. If both conditions set forth in the preceding sentence are not met, the ESVBA shall not have the power to so negotiate. In such event, the ESVBA will utilize the following procedure: The ESVBA shall notify the apparent low bidder in writing that the bid exceeds available funds and advise such bidder of ESVBA's decision to negotiate to obtain a contract within available funds through reduction in scope, modification of timelines, or other costs saving changes to the specifications of the goods or services to be obtained. The parties will thereafter negotiate in good faith to determine if a contract within the available funds may be obtained.

9. Anti-Trust

By entering into a contract, the bidder conveys, sells, assigns and transfers to the ESVBA all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by or on behalf of the ESVBA under the contract.

10. Ethics in Public Contracting - §2.2-4367

By submitting their proposals, suppliers certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

11. Debarment Status

The ESVBA may decline to award a contract to contractors or subcontractors for any contract/subcontract in excess of \$10,000 who are debarred by the United States Department of Labor, or any other agency of the federal government, or by a political subdivision of the Commonwealth of Virginia or any agency or subdivision of any such entity. Moreover, ESVBA may decline to award a contract to any potential contractor who is determined by ESVBA not be responsible or whose proposal is not responsive to the requirements contained in this solicitation.

Approval of a proposed contract/subcontract award shall not be given by the ESVBA unless and until the proposed contractor/subcontractor has submitted a Bidder Compliance Statement Certification Regarding Equal Employment Opportunity, and a Certification of Bidder Regarding Debarment by Agency of the Commonwealth of Virginia, subject to the above paragraph. Although the bidder is not required to attach such Certifications by proposed subcontractors to his bid, the bidder is herein advised of these requirements so that appropriate action can be taken to prevent subsequent delay in subcontract awards.

12. Anti-Discrimination

By submitting their bid, bidders certify that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians with Disabilities Act, the Americans with Disabilities Act and Sec. 2.2-4311 of the Virginia Public Procurement Act (VPPA).

13. Insurance

Bidder shall secure and maintain at its expense the following types of coverage, written by insurers authorized to issue policies in the Commonwealth of Virginia:

- a. Commercial General Liability insurance, including but not limited to, products liability and completed operations, contractual liability, independent contractor, for a combined single limit of at least \$1,000,000 per occurrence for bodily injury and property damage with a minimum policy aggregate of \$2,000,000; and
- b. Comprehensive Automobile Liability insurance (including Owned, Hired and Non-owned vehicles) for a minimum combined single limit of \$1,000,000 per occurrence; and
- c. "Umbrella" coverage providing liability insurance in excess of the coverage required by these Paragraphs (a) & (b), with a limit of not less than \$5,000,000.
- d. Worker's compensation, disability benefit and other similar employee benefits coverage in compliance with statutory requirements; and
- e. Employer's Liability insurance of at least \$1,000,000 per occurrence /accident/disease; and
- f. Public Liability of at least \$1,000,000 per occurrence; and

Bidder shall deliver a certificate of insurance on which the ESVBA is included as additional insured. Furthermore, the ESVBA must receive at least thirty (30) days' notice of cancellation or modification of the above insurance. Certificates of insurance must be provided prior to any work being performed and must be kept in force while services are being provided to the ESVBA. It is also agreed that bidder's policy is primary coverage for any and all losses covered by said policies and bidder's insurance shall have no right of recovery or subrogation against the ESVBA.

Bidder is responsible for determining whether the above minimum insurance coverage is adequate to protect its interests. The above minimum coverage does not constitute limitations upon bidder's liability.

14. Termination

The ESVBA may terminate the resulting contract for its convenience upon thirty (30) days written notice to the contractor. The contractor shall not be paid for any service rendered or expense incurred after receipt of such notice except such fees and expenses incurred prior to the effective date of termination that are necessary for curtailment of the contractor's work under this contract.

15. Hold Harmless Provision

The Contractor agrees to indemnify, defend and hold harmless the ESVBA and its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from the Contractor's performance of this Agreement, or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence on the part of the ESVBA or to failure of the

ESVBA to use the materials, goods, or equipment in the manner outlined by the Contractor and descriptive literature or specifications submitted with the Contractor's bid.

16. Changes to the Work

ESVBA may, in writing, direct Contractor to undertake a change in the Work, including but not limited to deletions, additions or modifications to the Project. Such writing shall detail the change in Contract Price, if any, or in Contractor's time to reach completion of the Project, and contractor shall undertake the work as directed. In the event Contractor disagrees with the ESVBA's determination as to adjustment in price or time for completion, Contractor shall proceed with the Work and may make a claim in accordance with Paragraph 17 (Contractual Claims Procedure).

17. Contractual Claims Procedure

- A. Contractual claims by Contractor, whether for money or other relief, except for disputes exempted by law from the procedure set forth herein, shall be submitted in writing no later than sixty (60) days after final payment. Any written notice of Contractor's intention to file such a claim need not detail the amount of the claim but shall state the facts and/or issues relating to the claim in sufficient detail to identify the claim, together with its character and scope. Whether or not Contractor files such written notice, Contractor shall proceed with the work as directed.
- B. The Board of the ESVBA, upon receipt of a detailed claim, may at any time render its decision and shall render such decision within ninety (90) days of final payment. Each such decision rendered shall be forwarded to the Contractor by written notice. In the event such claim is not acted upon within said ninety (90) day period, such claim shall be deemed denied and Contractor may proceed in accordance with paragraphs C and D.
- C. If the Contractor disagrees with the decision of the Board of the ESVBA concerning any pending claim, the Contractor shall promptly notify the ESVBA by written notice that the Contractor is proceeding with the work under protest. Any claim not resolved whether by failure of the Contractor to accept the decision of the Board of the ESVBA or under a written notice of Contractor's intention to file a claim or a detailed claim not acted upon by the governing body of the ESVBA, such claim shall be specifically exempt by the Contractor from payment request, whether progress or final. Pendency of claims shall not delay payment of amounts agreed due in the final payment.
- D. The decision on contractual claims by the Board of the ESVBA shall be final and conclusive unless the Contractor appeals within six months of the date of the final decision on the claim by instituting legal action in the appropriate circuit court. However, no legal action may be commenced by Contractor concerning any such contractual claim prior to rendering of a decision by the governing body of the ESVBA, unless no decision has been rendered within ninety (90) days of final payment or submission of the claim, in which case Contractor's claim shall be deemed denied.

18. Loss or Damage in Transit

Delivery by the Contractor to a common carrier does not constitute delivery to ESVBA. Any claim for loss or damage incurred during delivery shall be resolved between the Contractor and the carrier. The Authority accepts title only when goods are received and incorporated into the work, tested and accepted in accordance with the Specifications.

19. No Waiver

Any failure of the ESVBA to demand rigid adherence to one or more of this Agreement's provisions in the Contract, on one or more occasions, shall not be construed as a waiver nor deprive the ESVBA of the right to insist upon strict compliance with the terms of this Contract. Any waiver of a term of this Contract, in whole or in part, must be in writing and signed by the part granting the waiver to be effective.

20. Engineer

ESVBA may elect to retain the services of an engineer or design consultant for the project. In the event such engineer or design consultant is designated by ESVBA, Contractor shall take directions from and report to such engineer or consultant in the manner specified by ESVBA.

21. Ownership of Documents

Any reports, studies, photographs, negatives, or other documents prepared by Contractor in the performance of its obligations under any resulting contract shall be remitted to the Authority by the Contractor upon completion, termination, or cancellation of this Contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this contract without the prior written consent of ESVBA. ESVBA shall own the intellectual property rights to all materials produced under this contract.

II. Specific Bid Instructions

1. Envelope Identification

All submission requirements **must** be returned in a **sealed** envelope. The bidder shall clearly mark on the outside of the envelope:

INVITATION FOR BID NO. 2022-004
Aerial Network Construction;
bid opening date and time;
and the bidder's complete mailing address.

The ESVBA will not be responsible for premature opening or late arrival of bids improperly addressed or identified. If a bid is mailed in an envelope, not as specified, the bidder takes the risk that the envelope may be inadvertently opened, and the information compromised which may cause the bid to be disqualified. The ESVBA reserves the right to disqualify such a bid as non-responsive. Sealed bids may be hand delivered to the designated location.

2. Bid Submittal

The **original bid packet documents along with six (6) copies** should be submitted in a sealed envelope or container and hand-delivered or mailed to: Executive Director, Eastern Shore of Virginia Broadband Authority, 4174 Lankford Highway, Virginia 23350, no later than **2:00 PM EST, October 5, 2022**, after which time they will be publicly opened and read. Any bid received after **2:00 PM EST, October 5, 2022**, whether hand-delivered, submitted via U.S. Postal Service, or submitted via any other delivery service, will not be accepted. **THERE IS NO GUARANTEE OF OVERNIGHT DELIVERY. BIDDERS ARE ENCOURAGED TO USE 2-DAY DELIVERY.**

The ESVBA reserves the right to amend or cancel this IFB at any time, in the best interests of the ESVBA. The ESVBA reserves the right to reject any or all bids, in whole or any part thereof; to waive informalities and technicalities; and to accept any such bids which the ESVBA deems to be in the best interest of the ESVBA.

3. Submission Requirements

To be considered responsive, a bid must contain the following, referenced by number and in the order below:

1. A detailed cost bid on the provided Bid Form, Section 5. Some or all of the work to be performed pursuant to this procurement may be funded through grant funds. Accordingly, Davis-Bacon or similar prevailing wage requirements may be applicable. Bidders should provide pricing in the attached Bid Form both with and without prevailing wage requirements as indicated in the attached Bid Form. Because the ESVBA intends to award a contract to the lowest responsive and responsible offeror, a bidder should make its initial offer on the most favorable terms. ESVBA may select the lowest cost proposals with prevailing wage requirements, or the lowest cost proposals without prevailing wage requirements, depending on ESVBA's determination, in its sole discretion, as to whether prevailing wage requirements must or should be utilized for the project.
2. Completed Bidder Questionnaire, Form 1.
3. Register with the Virginia E-Procurement marketplace eVA <https://eva.virginia.gov/> and provide your eVA VendorID in your bid response.
4. A brief description of the history and organization of the bidder's firm, and of any proposed subcontractor.
5. Copies of business licenses, professional certifications or other credentials, together with evidence that the bidder is in good standing and is qualified to conduct business in Virginia.
6. A description of similar projects completed by the bidder within the past three (3) years.
7. Qualifications, background, and experience of the key personnel proposed to work on the project.
8. A statement confirming that the vendor has been in business for at least five (5) years.
9. A statement confirming that the vendor has completed at three (3) major projects or at least four (4) small projects in the last five (5) years.
10. A list of the major equipment the company owns or leases.
11. Bidder Compliance Statement Certification Regarding Equal Opportunity, Form 2.
12. Certification of Bidder Regarding Debarment by Agency of the Commonwealth of Virginia, Form 3.
13. A written acknowledgment of the acceptance of the contracting requirements set forth on Page 1 of this IFB.
14. A written acknowledgement of receipt of any and all addenda as set forth on the provided Bid Form, Section 5. Please list each addendum received and their dates.

Bids failing to address each of the submission requirements above may be deemed non-responsive and may not be further considered.

4. Bid Bond

Except for the three lowest acceptable bids, the bid bond will be returned after examination of the bids. Upon selection of a bidder, the bid bond will be returned to the other two bidders and the successful bidder bond retained until receipt of the performance and payment bonds.

Failure of the successful bidder to provide appropriate contract security and insurance coverage by the time of contract execution or ten (10) days after Notice of Award, whichever is first, may result in the Notice of Award being annulled and the bid security forfeited.

5. Pre-Bid Conference and Clarification Questions

Questions regarding the IFB, specifications or other solicitation documents may be addressed in person at the pre-bid conference. Clarification questions after the pre-bid conference may be submitted by email at rbridgham@esvba.com or by mail at the address listed above. All questions must be submitted no later than the date and time listed in Section 1. Questions and answers regarding this IFB may be shared with all bidders known to be interested in submitting a bid. If the question requires clarification, an addendum will be supplied to all bidders.

A bidder who believes that one or more of the IFB's requirements is onerous, unfair, or unnecessarily precludes less costly or alternative solutions, may submit a written request that the IFB be changed. The request must set forth the recommended change and reason for proposing the change. The Eastern Shore of Virginia Broadband Authority must receive any such requests no later than five (5) days prior to the date for submission of bids.

6. Bid Opening

Bids shall be publicly opened and read aloud in the presence of one or more witnesses at 4174 Lankford Highway at the Exmore, Virginia 23350. The amount of each bid, together with the name of each bidder, shall be recorded. The record on each bid shall be open to public inspection.

No statement or notation whatsoever, written, printed, typed or otherwise set out on any bid envelope, including any addition or deduction in contract price, shall be recognized in the review and tabulation of any bid or offer or for any other purpose.

7. Tied Bids

In accordance with Virginia Code Section 2.2-4324, in the event that there is a tie bid between more than one responsive and responsible bidders, preference will be given to goods produced in Virginia, goods or services or construction provided by Virginia persons, firms or corporations; otherwise, the tie shall be decided by lot. Preference may also be given to Virginia bidders in accordance with Virginia Code Section 2.2-4324(B).

8. Withdrawal, Modifications, and Amendment of Bids

Bidders who wish to withdraw, modify, or amend their bid must do so in writing utilizing electronic mail to the Eastern Shore of Virginia Broadband Authority (ESVBA) at rbridgham@esvba.com no later than the time and date set forth herein for the receipt of the Bid for **Aerial Network Construction**. All such withdrawals, modifications or amendments

must so state in the subject line of the email correspondence. Any withdrawal, modification or amendment arriving after the date and time set forth for accepting bids may only be withdrawn in accordance with Virginia Code Section 2.2-4330. Other bases for withdrawal will not be considered. After the opening of the bids, a bidder may not change any provision of the bid in a manner prejudicial to the interests of the ESVBA or fair competition. Minor informalities may be waived at the discretion of the ESVBA.

9. Pricing Errors

In case of an error in price extension, the firm fixed unit price shall govern.

The ESVBA reserves the right to accept or reject all or any part of the bids, waive minor technicalities or informalities and award the Contract to the lowest responsive, responsible bidders to best serve the interest of the ESVBA.

The successful bidders shall be determined by the firm fixed unit prices as listed in the Pricing Schedule (Bid Form) that completely satisfies the specifications and time schedules. In determining the lowest responsive and responsible bidders, after unit price bids have been received, ESVBA shall select at random five (5) representative task orders for underground installation, and calculate the overall task order prices for each bidder on each task order so selected, based upon the bidder's unit pricing. The responsive and responsible bidders with the lowest combined task order costs on the five (5) representative task orders shall be determined the lowest bidders, and awarded contracts.

In determining the lowest responsive, responsive bidders, in addition to the price, the ESVBA shall consider:

- The financial stability and long-term viability of the bidder.
- The industry reputation of the bidder to perform the Services required.
- The ability of the bidder to provide support and future maintenance and service.
- The ability, capacity, and skill of the bidder to perform the contract or provide the service required.
- The track record of the bidder to meet performance requirements of the service within the specified time without delays and imperfections.
- The demonstrated history of satisfactory performance of the bidder in projects of similar nature and scope.

10. Intentionally deleted

11. Announcement of Award

Upon the award or the announcement of the decision to award, the ESVBA will issue a Notice of Award to the successful bidder(s) and notice to the other bidders of the Notice of Award.

12. Addenda

All addenda will be provided to all bidders either by email or direct mail. All such addenda shall become a part of the solicitation documents, must be addressed in the bid and shall become a Contract Document. **Bidders must acknowledge receipt of all addenda on the**

Bid Form, Section 5. The ESVBA accepts no liability for late receipt or non-receipt of addenda.

13. Acceptance of Bids

Bids submitted shall be binding for sixty (60) calendar days following the bid opening date, unless extended by mutual consent of all parties.

14. Changes, Additions, Deletions

No changes, additions, deletions or substitutions of specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges, or price will be permitted without the prior written approval from the ESVBA.

15. Proprietary Information and Trade Secrets

Bidders are advised that Section 2.2-4342 of the Code of Virginia, i.e., the Virginia Public Procurement Act, shall govern public inspection of all records submitted by the bidder. Specifically, if the bidder seeks to protect any proprietary data or materials, pursuant to Section 2.2-4342, **bidder shall (i) invoke the protection of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is needed.** The bidder shall submit proprietary information under separate cover. The ESVBA reserves the right to submit such information to the ESVBA Attorney to confirm the bidder's claim that the information for which protection is claimed is in fact proprietary. References may be made within the body of the proposal to proprietary information; however, all information contained within the body of the proposal not labeled proprietary or otherwise not meeting all three requirements of Section 2.2-4342 shall be public information in accordance with applicable law.

16. Delivery and Availability

Consistent failure to meet delivery promised without valid reason shall constitute a default, in which case the ESVBA may seek any and all remedies provided in the procurement or contract documents, or at law or in equity, including but not limited to termination of any resulting contract.

17. Defective Items

Services delivered which are defective or determined by the ESVBA not to be of industry standards will be promptly corrected or replaced by bidder to the satisfaction of the ESVBA. The ESVBA reserves the right to correct any unaccepted services either itself or by others if bidder does not promptly correct any defects at the bidder's expense.

18. Use of Brand Names

Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The bidder is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and

technical detail to enable the ESVBA to determine if the product offered meets the requirements of this solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding, only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in the disqualification of the bid as nonresponsive. Unless the bidder clearly indicates in its bid that the product offered is an equal product, such bid will be considered to offer the brand name product referenced in the solicitation.

19. Inspection of Site and Conditions of Work

Bidders should visit the site of the proposed project and become fully acquainted with the pertinent local conditions such as location, accessibility and general character of the site or building, and the character and extent of existing work within or adjacent to the site. Bidders should thoroughly examine the drawings, specifications, and all other contract documents. Claims resulting from the failure to do so, will not be considered by the ESVBA.

20. Pre-Bid Site Meeting

Section intentionally deleted.

SECTION 3: GENERAL SPECIFICATIONS

I. Summary of Work

1. Statement of work

- 1.1. ESVBA (Owner) is anticipating the installation of approximately 250 linear miles of fiber optic cable in Accomack and Northampton Counties in the Commonwealth of Virginia, contingent upon availability of funds and approval of funding sources. The installation is expected to consist of a combination of aerial installation and underground installation (to be awarded by separate contract. All bidders must bid for additional labor/support services, in addition to the aerial component, and such labor/support services shall include restoration work in the event of network outage or emergency.
- 1.2.
- 1.3. This Invitation for Bid (IFB) sets forth the terms and conditions that will govern any contract to be awarded concerning the installation work described herein.
- 1.4. This is an “as-ordered” agreement, which means that it covers Services as they are ordered by ESVBA.
- 1.5. ESVBA does not guarantee purchase of any minimum quantity of Services from any bidder(s). Any and all contracts issued hereunder shall be explicitly subject to approval and appropriation by the board of ESVBA and may be contingent upon available funding from external sources. The ESVBA does not guarantee any minimum quantity or value (dollar amount) of Services to be procured hereunder.
- 1.6. Any estimates regarding the quantity, time frames, or any other information regarding the IFB are not firm or binding unless otherwise specifically stated in this IFB.
- 1.7. The majority of the new fiber optic network is anticipated to be aerial construction. Underground portions of the network are being separately procured from underground contractors. The successful contractor(s) will coordinate with ESVBA to help facilitate the aerial and underground portions of the network which may be installed in adjacent areas simultaneously.
- 1.8. The bidder must be able to deploy and begin Services within fifteen (15) business days of notification by the ESVBA.
- 1.9. In the event of a network outage or emergency, Bidder must be able to respond and begin restoration work within two (2) hours upon notification by ESVBA.
- 1.10. Pole attachment, conduit permits, and rights-of-way/easement licensing shall be secured by the ESVBA.
- 1.11. Bidder is responsible for the implementation of any requirements by roadway or railway entities such as work area safety including, but not limited to, crash trucks, flaggers, etc., MissUtility (Call Before You Dig), etc. Additionally, the protection of fiber/equipment is the sole responsibility of the bidder until final acceptance by ESVBA.

- 1.12. This is not an exclusive dealings arrangement.
- 1.13. ESVBA reserves the right at any time to terminate any contract resulting from this procurement for any reason, including convenience, and reserves the right to re-issue a Request for Proposals for similar services at any time.
- 1.14. The selected bidder(s) will be chosen based upon price, financial stability, availability, and industry reputation. The IFB bid form is divided into three (3) parts:
- 1.15. Line-item pricing for aerial plant operations
- 1.16. Line-item pricing for additional labor operations; any additional labor required for aerial operations. Such additional charges must be in excess of normal construction operations and must approved by the ESVBA prior to work commencement.
- 1.17. Line-item pricing for additional equipment operations any additional support required for aerial operations. Such additional charges must be in excess of normal construction operations and must approved by the ESVBA prior to work commencement

2. Contractor Duties

- 2.1. Contractor shall supply all supervision, labor, construction equipment, transportation, licenses, taxes, safety and consumable supplies and all other incidental cost required for the completion of work as specified in the Contract Documents.
- 2.2. No work shall commence until Owner has issued Contractor a written Notice to Proceed.
- 2.3. No work shall commence until Contractor has provided Owner with certificates of insurance in compliance with the requirements of the contract documents, and such certificates are reviewed and approved by ESVBA legal counsel. Contractor shall ensure that subcontractors provide certification of compliance when required by contract documents and submit such certification to Owner prior to the Contractor beginning work.
- 2.4. No work shall commence until Contractor has provided Owner with 100% performance and payment bond in the amount of the total contract price on the Contract Documents prescribed forms.
- 2.5. Contractor shall not begin any extra work without the written authorization of the Owner representative.

3. Engineering

- 3.1. Supplied design/engineering plans are for informational purposes only. The Contractor must verify actual field conditions.
- 3.2. Contractor may make field adjustments in the running line with prior written approval from Owner, with any such adjustments being shown on the red line drawings. Contractor is encouraged to suggest alternative installation methods in an effort to avoid excessive traffic control, increase productivity, and/or provide additional protection of all associated patrons and construction personnel.

- 3.3. Contractor shall have the responsibility to make its own investigation as to the availability of public or private roads and of clearances, restrictions, bridge load limits, bond requirements, permits and other limitations that may affect Contractor's transportation for equipment, materials and manpower ingress and egress to the job site.

4. Construction

- 4.1. Contractor shall install cable in any method deemed most suitable, economical and/or efficient by Contractor, except where a specific construction method is specified by any of the following: 1) the Contract drawings 2) the specific task order governing the work in question, 3) by a permit or other directive issued by a governmental authority having jurisdiction.
- 4.2. Contractor shall provide all maintenance and traffic control to the satisfaction of Owner and agencies having jurisdictional authority of the area of work.
- 4.3. During the course of installation, Contractor shall protect the right-of-way to minimize damage from construction activities including but not limited to utilizing good soil erosion control practices and taking special precautions in environmentally sensitive and cultural resource sites.
- 4.4. Contractor shall ensure that the work sites are accessible for work including but not limited to preventing vehicles from parking on site, removing snow, pumping manholes, and scheduling work to avoid delays by road construction, repair, or other outside party projects.

5. Ordinances & Codes

- 5.1. All work described herein shall be performed in strict accordance with the construction drawings, construction typicals, specifications and all applicable Federal, State, County, City, Local laws, ordinances, rules and regulations of all authorities having jurisdiction over construction related to the project. The aforementioned laws, ordinances, rules and regulations are hereby incorporated and become a part of the Contract Documents as though they were written herein.
- 5.2. All work shall meet or exceed appropriate Owner, Utility, Railroad, OSHA, VDOT, ANSI, AASHTO, Federal, State and Local standards. Contractor is required to excavate test pits (potholes) to verify locations of existing utilities prior to conduit placement. All areas affected by the Work shall be restored to original or better condition.

6. Definitions

- 6.1. Owner shall mean:

Eastern Shore of Virginia Broadband Authority (ESVBA)
4174 Lankford Highway
Exmore, Virginia 23350

- 6.2. VDOT shall mean the Virginia Department of Transportation.
- 6.3. OSHA shall mean the Occupational Safety and Health Administration.
- 6.4. ANSI shall mean the American National Standards Institute.
- 6.5. AASHTO shall mean the American Association of State Highway and Transportation Officials.
- 6.6. NEC shall mean the National Electric Code. Substantial Completion shall mean that Contractor has completed all work contained in and in accordance with the Contract Documents and when Contractor has corrected all deficiencies to the satisfaction of the Owner and the jurisdictional authorities.
- 6.7. Right-of-way (ROW) shall mean the surface, the areas below the surface and the air space above the surface of the entire roadway/ railway.

7. Submittals

7.1. Red-Line Drawings (As-Built Drawings)

On a daily basis, Contractor shall red-line drawings during the course of construction to show the actual alignment or other variances of all installations required by the construction drawings. The drawings shall be available for review by the Owner's Representative when requested on the job site. Additionally, Contractor shall submit all redline drawings to the Owner's Project Office on a weekly basis. Under no circumstances shall Contractor proceed with work until acceptable redline drawings are received by Owner for the previous week's work. Work shutdowns incurred by Contractor due to the failure to provide acceptable redline drawings per this section shall not become the basis for an extension of time or additional compensation to complete the Contract. Contractor shall not submit any application for payment prior to submitting the associated redline "as-built" drawings. Owner shall not make payment for work prior to receiving the associated redline "as-built" drawings.

7.2. Daily Progress Report

Contractor's progress shall be tracked by utilizing Daily Progress Reports. Daily Progress Reports shall be completed by a Contractor's Field Representative and signed by the Contractor's Supervisor with a copy available for the Owner. The Contractor shall note on these forms any discrepancies in progress.

7.3. Contractor's Construction Schedule

If required by the ESVBA, Contractor shall submit a revised detailed Microsoft project resource-loaded construction schedule within five (5) business days of Contract execution for Owner's approval on an 'as-needed' basis determined solely by the Owner. For small jobs Microsoft project resource-loaded construction schedules will not be required. The resource-loaded construction schedule shall include the method(s) by location with the associated quantities, manpower, equipment and production to complete the work. Contractor shall provide Owner this

schedule in soft and hard copy form. The schedule shall contain sufficient detail to ensure that Owner can measure Contractor's progress on a weekly basis throughout the project duration. Owner shall utilize the Daily Progress Report to measure Contractor's progress. Owner must be notified of any unscheduled delays or recovery plans as necessary.

7.4. Weekly Logs

Contractor shall also keep a weekly log of the following documents: SIGNING, BARRICADING AND LIGHTING LOG, UTILITY LOCATION LOG

8. Temporary Facilities

- 8.1. Contractor shall be responsible for the provision and upkeep of temporary services, utilities, and facilities necessary for the completion of the works.

9. Products and Materials

- 9.1. Contractor shall furnish their own storage facilities, loading personnel and equipment, and offloading personnel and equipment.
- 9.2. Once provided by Owner to Contractor for inclusion in the work, Contractor shall be solely responsible for all materials during storage and after installation until acceptance of the work by Owner.
- 9.3. Contractor shall dispose of all empty reels in an approved and timely manner.
- 9.4. Except for Owner-supplied materials, the Contractor shall provide all other items including but not limited to restoration materials, select fill, concrete, asphalt, consumables, equipment, tools, grass seed, vegetation, straw, gravel, aggregates, rip rap, erosion control materials, foam, duct sealant, and all other materials and incidentals necessary for a complete installation. Materials provided by Contractor shall comply with specifications and requirements provided by Owner or other agencies having jurisdiction of the area. Owner will not reimburse Contractor for such materials used. Any restoration as a result of Contractor's activities is considered part of the work operation.
- 9.5. Contractor shall supply only materials specifically approved for this Contract, or that have been listed as an "approved" item. Contractor may elect to submit to Owner for approval of materials supplied by other vendors. Contractor will not be allowed any extensions of time for delays necessary for approval of materials.

10. Traffic Control

- 10.1. Contractor shall at all times exercise reasonable and due care under the circumstances in managing and controlling the flow of traffic through work zones. Contractor shall indemnify parties in accordance with Paragraph 15 of the General Terms and Conditions for any failures by Contractor to exercise such care.

- 10.2. Contractor shall be in compliance of the Virginia Work Area Protection Manual, Standard and Guidelines for Traffic Control. This is the Virginia version of Part 6 of the Manual on Uniform Traffic Control Devices (MUTCD).
- 10.3. Contractor shall conform to all traffic controls as required by the jurisdictional authority, the permits, and Owner. Contractor shall coordinate with the appropriate jurisdictional authority and incur all cost of law enforcement or other jurisdictional personnel.
- 10.4. Contractor shall coordinate and pay for all necessary police protection for traffic control according to and as requested by the jurisdictional authority or as instructed by the Owner's field representative.
- 10.5. Contractor shall be responsible for the safety of the general public and shall always give right of way to all other vehicular traffic on the Roadway. Contractor shall not detour traffic, close a lane, or impede traffic flow without approval from the jurisdictional authority or local police.

11. Daily Project Clean Up Requirements

- 11.1. Contractor shall maintain a clean and hazard free work area including, but not limited to, daily removal of all spoils and sweeping of all affected roadway and sidewalk areas. All such operations are considered part of the work operation.
- 11.2. Contractor shall remove from the site and dispose of all spoil, waste, and other unused excavated materials in accordance with all Federal, State, Local, OSHA, EPA and VDOT standards and regulations.
- 11.3. Contractor shall store all equipment, tools, material in a manner so as not to inhibit traffic flow or parking during working or non-working hours. All staging areas must receive final approval from Owner and other jurisdictional authorities. Owner shall assume no responsibility for Contractor's equipment or materials. Security for the job areas is the responsibility of the Contractor. Contractor shall comply with the security requirements of the right-of-way owners or other jurisdictional authorities.
- 11.4. No material, equipment, or refuse shall be stored in any recovery zones of all roadways. A recovery zone shall be defined as an area where vehicular traffic may leave the roadway without protection. Contractor shall verify the location of recovery zones with Owner and the jurisdictional authority. All restoration in recovery zones shall be performed immediately following installation. All unused materials and empty reels shall be removed from jurisdictional right-of-way on a daily basis.

12. Permits

- 12.1. ESVBA's Engineering firm shall secure the required road opening including permits for VDOT. Delays in the progression of work caused by Owner's acquisition of permits shall be excusable but not compensable. Owner will obtain necessary permits for placing its facilities in any wetlands or VDOT rights-of-way.
- 12.2. Prior to the start of work, Contractor shall obtain and pay for all permits required for Contractor's construction operations including but not limited to contractor's licenses, construction bonds, transportation, traffic control, equipment, labor and or other general permits.

- 12.3. Contractor's employees shall limit their activities to the construction site and governing rights-of-way. Trespassing in other areas shall not be permitted.

13. Project Meeting Requirements

- 13.1. Contractor shall be required to attend weekly progress meetings as requested by Owner and/or other Contractor-scheduled coordination meetings with Owners, Contractor, and other Contractors during the prosecution of the work.

14. Inspection and Acceptance

- 14.1. All work shall be subject to the inspection and approval of the Owner, and other governing agencies having jurisdiction. Contractor shall schedule the work and provide adequate notifications to comply with any and all requirements for inspection.
- 14.2. Owner's representatives shall inspect workmanship and progress of work being performed. Where workmanship or installation deficiencies are observed, Owner's representative shall prepare a written list of these deficiencies and discuss them immediately with the Contractor's Supervisors. Contractor shall then take measures to immediately and expeditiously correct any written deficiencies to the satisfaction of Owner's representative without impacting the installation schedule at no additional cost to Owner.
- 14.3. Upon notification to Owner by Contractor of completion of the work, an Owner representative, the Contractor's representative and a representative of the jurisdictional authorities shall jointly perform a "walk through" inspection of the work. The Owner Representative shall, during this inspection, prepare a punch list of observed deficiencies. Contractor shall then correct all deficiencies in a timely manner. Acceptance shall be granted when all deficiencies have been corrected to the satisfaction of Owner and all jurisdictional authorities.

15. Supervision and Superintendents

- 15.1. Contractor shall provide a Supervisor that is fluent in English and has the proper skill, training, background knowledge, experience, rights, authorizations, character, and licenses as necessary to perform the Work in a competent, ethical, and professional manner. Contractor shall designate this Supervisor to be on site at all times and act as the official Contractor on-site representative in connection with the work with this Contract.
- 15.2. Contractor shall provide to Owner along with the executed contract, the names and numbers of the members of his/her organization and subcontractors' organization who can be contacted in the event of out-of-hours emergency at the construction route.

16. Environmental Conditions

- 16.1. Section intentionally deleted

17. Project General Conditions

- 17.1. Contractor shall be responsible for and shall pay all applicable taxes relating to unemployment, social security and worker's compensation, franchise taxes (including taxes assessed on Contractor's net income), levies, duties, work-in-progress and assessments of every nature due in connection with any Work under this Contract and

shall make any and all payroll deductions required by law. Contractor shall indemnify and hold harmless Owner from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

- 17.2. Contractor shall be responsible for any fines, tolls, tickets or additional costs associated with the work either directly or indirectly. The Contractor is aware of all existing and potential restrictions to construction that have been or may be placed by the jurisdiction authorities, including, but not limited to, traffic control, fuel and/or oil leakage and noise pollution.

18. Warranty

- 18.1. Contractor shall provide a warranty on all Contractor supplied materials conforming to warranty requirements of Contract. Any warranties that extend for greater periods than contractually obligated shall be passed along to Owner.
- 18.2. The Contractor warrants the materials delivered and work completed under the Contract to be free from defects in design, material or workmanship, and against damage caused prior to final inspection. Unless otherwise specified, this warranty extends for a period of one (1) year from the date of Substantial Completion.
- 18.3. The Contractor shall promptly repair or replace all defective or damaged items delivered under the Contract. The contractor may elect to have any replaced item returned to his plant at his expense.

19. Record Documents

- 19.1. The Contractor shall maintain an accurate set of Record Drawings and Specifications. Any parts of the Work that varies substantially from that indicated in the Contract Documents shall be neatly and clearly marked on a set of Drawings and Specifications designated for such purposes.
- 19.2. The representation of such variations shall conform to standard drafting practices and shall include such supplementary notes, legends, and details as may be necessary for legibility and clear portrayal of the as-built construction. Particular attention shall be paid to the accurate indication of location of concealed utility lines.
- 19.3. These drawings shall be transmitted to the Owner at completion of the Work.

20. Project Closeout

- 20.1. As construction of the project(s) enters the final stages of completion, the Contractor shall, in concert with accomplishing the requirements set forth in the Contract Documents, attend to or have already completed the following items as they apply to his contract:
- 20.2. Required testing of project components.
- 20.3. Correcting or replacing defective work, including completion of items previously overlooked or work that remains incomplete, all as evidenced by the Owner's "Punch" Lists.
- 20.4. Attend to any other items listed herein or brought to the Contractor's attention by the Owner.

- 20.5. The Contractor shall provide a healthy stand of grass on all reseeded areas prior to completion. In the event this is not accomplished, a proper stand of grass shall be noted on the punch list and the contractor's bond shall remain in effect until the grass stand meets the owner's satisfaction.
- 20.6. In addition, and before completion of a project(s), the Contractor shall submit to the Owner certain records, certifications, etc., which are specified elsewhere in the Contract Documents. Missing, incomplete or unacceptable items, as determined by the Owner, shall constitute grounds for withholding Final Payment to the Contractor. A partial list of such items appears below, but it shall be the Contractor's responsibility to submit any other items which are required in the Contract Document:
- Test results of project components.
 - All outstanding submittal logs.
 - Certification of materials in compliance with Contract Documents.
 - One set of neatly marked-up record drawings showing as-built changes and additions to the work under this contract.
 - Any special guarantees or bonds
 - Manufacturer's Warranties.

21. Payment

- 21.1. Payment for project(s) may be requested when the Owner is satisfied the following conditions have been fulfilled:
- 21.2. Transfer operational access and similar provisions to Owner and remove temporary facilities, tools, and similar items.
- 21.3. Complete closeout requirements specified in Project Closeout.

22. CONSTRUCTION SPECIFICATIONS

All materials and equipment shall be applied, installed, connected, erected, utilized, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processor, except as otherwise provided in the Contract Documents. Contractor shall abide by the following acceptable practices to complete the installation:

22.1. CLEAR RIGHT-OF-WAY (ROW)

1. This work includes coordination and written approval with Owner prior to the start of work. All trees and/or brush shall be cut so that stumps protrude from the ground at a height no greater than two inches (2"). Clearing by Contractor shall be complete with the removal or chipping of the cleared material and is considered part of the work operation.
2. All trimming and pruning shall be done by cutting only. No stripping, peeling, or breaking of limbs shall be allowed. When trimming shrubs and trees, Contractor shall use sharp, disease-free tools. All cuts shall be clean, and no stubs greater than one-quarter inch (1/4") shall be allowed. Exposed bark or limbs shall not be

painted or treated in any way. Clearing and trimming shall be complete with the removal or chipping of cleared material and is considered part of the work operation.

3. Contractor shall remove existing fences on the right-of-way only upon written approval. Contractor shall remove temporary fencing erected by Contractor as soon as practicable.
4. Contractor shall abide by any and all applicable rules and regulations concerning clearing the right-of-way. Any penalties and/or fines for violations incurred during the clearing of the right-of-way shall be the sole responsibility of Contractor.
5. Contractor shall verify all restoration or replacement requirements in connection with clearing activities with the ROW owner. Contractor shall solely be responsible for abiding by the requirements set forth by ROW owner.

SECTION 4: AERIAL FIBER OPTIC CABLE INSTALLATION

1. Specific Practices

- 1.1. Contractor shall ensure that fiber optic cable is installed as specified on the drawings and that Contractor installs fiber optic cable in accordance with the manufacturer's recommendations, and that the Work is performed in accordance with the Telcordia standards
- 1.2. Contractor shall ensure that each reel of fiber optic cable will be tested at the factory and prior to installation. Owner assumes no responsibility whatsoever for the fiber cable until acceptance by Owner.
- 1.3. Contractor shall ensure that all strand and fiber cable, down guys, pole-to -pole guys, anchors, arms, risers, lateral cables, etc. are installed as per industry standards or as shown on the drawings. Not shown, but included, are bonds to other communication strands (not power communication) and vertical ground at first, last, and every tenth pole, fiber tags at every pole, tree trims, down guy guards, u-guards, and pole stepping as required.
- 1.4. Contractor shall ensure that there shall be strand continuity throughout the system and that strand-to-strand bonds shall be accomplished using a separate bond clamp and #6 copper bond, (i.e. double framed poles).
- 1.5. Contractor shall ensure that any anchors and guy wires shall always be installed and tensioned prior to sagging.
- 1.6. Contractor shall ensure that guys shall be attached to standard pole line hardware and anchor rods using a perform dead end, two-bolt clamp for 6.6M (1/4") strand, three-bolt clamp for 10M (5/16") strand or strand vice.
- 1.7. Where authorized by the local utility companies an auxiliary eye attachment may be used to attach a guy to an existing anchor rod.
- 1.8. Contractor shall ensure that anchor rods shall not protrude more than twelve (12) inches above ground level and, where required by the governing pole owner(s), strain insulators are installed on all down and pole-to-pole guys.
- 1.9. Contractor shall ensure that all strand, down guys, and fiber cables all provide appropriate clearance as required by the National Electric Safety Code Table 232-1 from the ground, electrical plant and other communications providers. Any ordered placing that does not achieve sufficient clearance shall be reported to the ESVBA for re-engineering or remediation.
- 1.10. Contractor shall mount strand and fiber at the highest possible mounting point on any pole that still provides required clearance from the power grid and attachers.
- 1.11. Contractor shall ensure that guy guards (shields) are utilized on all down guys.
- 1.12. Contractor shall ensure that at junction poles and dead-end poles, all strands are bonded or grounded.

- 1.13. Contractor may use metal, wood, or fiberglass standoff to clear obstructions if approved by the local utilities.
- 1.14. Contractor shall always provide at least one (1) eight (8) ft section of U-Guard on any riser pole properly secured with at least six (6) attachment fasteners. Cables above U-Guard's shall be secured using proper drop wire cable clamps or drive rings to ensure cable is secured every 18-inches.
- 1.15. Aerial cables attached to a subscriber's home shall be secured to the house with proper hardware to ensure cable is secured for the outdoor environment. All aerial attachments on the house shall be fastened through the fascia into the studs to ensure proper cable securing.
- 1.16. Cables shall be run from the attachment point to a customer NID using general good contractor's practices such as cables being parallel or perpendicular to the edges of the structure, cables shall not have more than 2" of sag at any point, cables shall be run into the bottom of the NID to limit water penetration into the NID.
- 1.17. All house penetrations shall be of appropriate size to allow the cable(s) to be allowed to go through the penetration but kept as small as possible to ensure minimal damage. All penetrations will be sealed with caulking or appropriate outdoor sealant to minimize the risk of damage to the house due to environmental factors including, but not limited to things such as water or insects.
- 1.18. Contractor shall ensure that fiber optic cable and lashing machines shall NOT be pulled with a vehicle at ANY time.
- 1.19. Contractor shall ensure that fiber optic cable shall be smoothly installed using double lashing to strand. Loose lashing or excessive twisting or weaving of cable around messenger shall constitute cause for rejection.
- 1.20. Contractor shall ensure that all slack loops are lashed to the fiber line with a properly-sized "snowshoe" on each side of the slack loop, no single snowshoe nor fiber left coiled will be considered acceptable.
- 1.21. Contractor shall always mount splice enclosures with two strand-mounted clamps that are properly tensioned and the fiber shall always be lashed from the case to the bend of the cable. The bend (a/k/a the fiber hinge) shall be placed inside a single snowshoe for proper bend radius and fiber storage.
- 1.22. Tape shall not, under any circumstances constitute an acceptable means to permanently secure items in the plant. Proper mounting techniques must be used. Tape can be used to temporarily secure items while the job is in-progress and can be used in conjunction with other proper permanent mounting techniques.
- 1.23. Contractor shall ensure that cable is not pulled with more than 600 lbs. of dynamic tension and that safeguards, such as breakaway swivels, adjustable slip-clutch capstan winches, or pulling dynamometers are used.
- 1.24. Contractor shall ensure that cable rollers are placed every fifty (50) feet, or closer where required, to protect the cable and property and to assure proper clearance over driveways and streets and that separator blocks are used on multi-cable runs to prevent wrapping.

- 1.25. Contractor shall ensure that special corner cable rollers are used for pulling cable around any corner.
- 1.26. Contractor shall ensure that cables are double lashed to a supporting strand using a 0.045" stainless steel lashing wire maintaining an average of 2,400 feet of lashing wire per 1,000 feet of strand.
- 1.27. Contractor shall ensure that bends of small radii and twists that may damage the fiber optic cable are avoided and that during cable placement, cable is bent in a radius less than twenty (20) times the outside diameter of the cable or as specified by the Manufacturer.
- 1.28. Pulleys, sheaves or radius wheels shall be used to meet this requirement.
- 1.29. Contractor shall ensure that cable is not pulled at greater than 180 degrees of cable bend per pull.
- 1.30. Contractor shall ensure that lashing wire is terminated with a lashing wire clamp on each side of every pole, that the lashing wire is wrapped two times around the strand before terminating in the lashing wire clamp, is placed between the two washers, is wrapped no more than ½ turn, and does not cross itself under the washers. Contractor shall ensure that when the lashing wire is securely fixed, the end of the lashing wire is not exposed and that when double lashing, both lashing wires are not placed under the same washer.
- 1.31. Contractor shall ensure that new lashing on an existing line shall not exceed two layers of lashing. If a new cable will create three or more layers of lashing, Contractor will de-lash the existing two or more layers and re-lash with one single layer of lashing bundling all cables to the strand.
- 1.32. Contractor shall ensure that at each pole the cable and strand are separated by cable support and spacers with a minimum of two (2) straps and spacers.
- 1.33. Contractor shall ensure that fiber optic cable slack loops are placed in slack shoes as shown on the drawings and are located a minimum of four (4) linear feet from the pole. Slack loops and splice cases may be coiled on the pole (provided that the recommended bend radii are not exceeded) but must be promptly lashed to messenger strand.
- 1.34. Contractor shall ensure that fiber warning tags are placed at each pole that Contractor labels all cable tags with a permanent marker and that labels include the count of fiber and any requested Owner information.
- 1.35. Contractor shall redline drawings to produce and submit to Owner record drawings of the installed fiber optic cable.
- 1.36. Contractor shall perform bonding and grounding of all armored cables, hand holes and metal conduits to meet or exceed industry standards, local, state and federal codes. All bonding and grounding are performed in accordance with the splice case manufacturer's specifications.
- 1.37. Contractor shall ensure that all bonds are clean and free of debris and sealed within the splice closure.

- 1.38. If ground rods are required, they shall be installed to leave eight inches (8”) exposed above ground with a #6 AWG jacketed solid copper wire from the ground rod to the splice closure attached via mechanical clamps.

SECTION 5: BID FORMS, UNIT PRICE, AND SAMPLE DESIGNS

Based on the information contained within this Invitation for Bid, inclusive of all construction documents attached, [redacted] (General Contractor) proposes a Unit Price Bid of line items attached herein to perform and furnish all work contained in and in accordance with the Contract Documents.

Contractor’s proposal of the stated Unit Price schedule includes but is not limited to cost for all supervision, labor, equipment, tools, overhead and profit, margin, traffic control, and other costs necessary to complete the work. Contractor's proposal shall not include materials costs. ESVBA will separately procure the materials. Contractor's proposal shall be for installation only.

I. Schedule of Bid Price

The following unit prices shall be utilized to establish the project scope of each task order, and to modify the project scope by adding and/or deleting from the scope of work. These unit prices shall include labor only.

Table 1: Aerial Plant Operations

| Line Item | Aerial Plant Operations | Unit | Installation Unit Price | Unit Price if Prevailing Wage is Required |
|-----------|---|----------|-------------------------|---|
| 1001 | Install Strand Including Pole Hardware Materials (bolts, clamps, etc) | per foot | \$ | \$ |
| 1002 | Lash Fiber to Existing Strand/Cable | per foot | \$ | \$ |
| 1003 | Install Self-Support (Figure Eight) Fiber | per foot | \$ | \$ |
| 1004 | Install Self-Support (Figure Eight) Innerduct | per foot | \$ | \$ |
| 1005 | Install Slack Shoes | pair | \$ | \$ |
| 1006 | Install Extension Arm | each | \$ | \$ |
| 1007 | Install Down Guy | each | \$ | \$ |
| 1008 | Install Screw Anchor | each | \$ | \$ |
| 1009 | Install Building Attachment | each | \$ | \$ |
| 1010 | Install Pole (25'-35' all classes) | each | \$ | \$ |
| 1011 | Install Pole (40'-45' all classes) | each | \$ | \$ |
| 1012 | Install Vertical Ground & Rod | each | \$ | \$ |
| 1013 | Remove Cable & Strand | each | \$ | \$ |
| 1014 | Remove Down Guy | per foot | \$ | \$ |
| 1015 | Delash/Relash Fiber | each | \$ | \$ |
| 1016 | Remove Pole | per foot | \$ | \$ |
| 1017 | Bond Strand | each | \$ | \$ |

| | | | | |
|------|------------------------------|------|----|----|
| 1018 | Remove Extension Arm | each | \$ | \$ |
| 1019 | Transfer Fiber to Pole | each | \$ | \$ |
| 1020 | Transfer Aerial Drop to Pole | each | \$ | \$ |
| 1021 | Raise/Lower Existing Cables | each | \$ | \$ |
| 1022 | Run Fiber/Drop Cable | each | \$ | \$ |

Table 2: Additional Labor/Support Operations

| Line Item | Additional Labor/Support Operations | Unit | Installation Unit Price | Unit Price if Prevailing Wage is Required |
|-----------|---|----------|-------------------------|---|
| 4001 | Laborer | per hour | \$ | \$ |
| 4002 | Flag Person | per hour | \$ | \$ |
| 4003 | Foreman | per hour | \$ | \$ |
| 4004 | Superintendent | per hour | \$ | \$ |
| 4005 | Installer (In-building wiring) | per hour | \$ | \$ |
| 4006 | Clearing & Grubbing Trees/Brush < 2” Diameter | per foot | \$ | \$ |
| 4007 | Clearing & Grubbing Trees/Brush > 2” Diameter | per foot | \$ | \$ |

Table 3: Additional Equipment Operations

| Line Item | Equipment | Unit | Labor and Equipment Unit Price | Labor and Equipment Unit Price if Prevailing Wage is Required |
|-----------|---------------------------------------|----------|--------------------------------|---|
| 5003 | Dump Truck – single axle (mason dump) | per hour | \$ | \$ |
| 5004 | Dump Truck – double axle | per hour | \$ | \$ |
| 5005 | Backhoe | per hour | \$ | \$ |
| 5006 | Tractor and low-boy trailer | per hour | \$ | \$ |
| 5007 | Pickup Truck | per hour | \$ | \$ |
| 5009 | Utility Truck with tools | per hour | \$ | \$ |
| 5011 | Air Compressor | per hour | \$ | \$ |
| 5012 | Attenuator Truck with Arrow Board | per day | \$ | \$ |
| 5013 | Bucket Truck | per day | \$ | \$ |
| 5014 | Winch Truck | per day | \$ | \$ |
| 5015 | Reel Trailer | per day | \$ | \$ |
| 5016 | Light Tree | per day | \$ | \$ |
| 5017 | Cable Blowing Machine | per day | \$ | \$ |
| 5018 | Cable Pulling Machine | per day | \$ | \$ |

Cable Placing Samples and Rate Elements for Samples

Figure 1. Sample of Overlash and New Construction of Aerial Plant

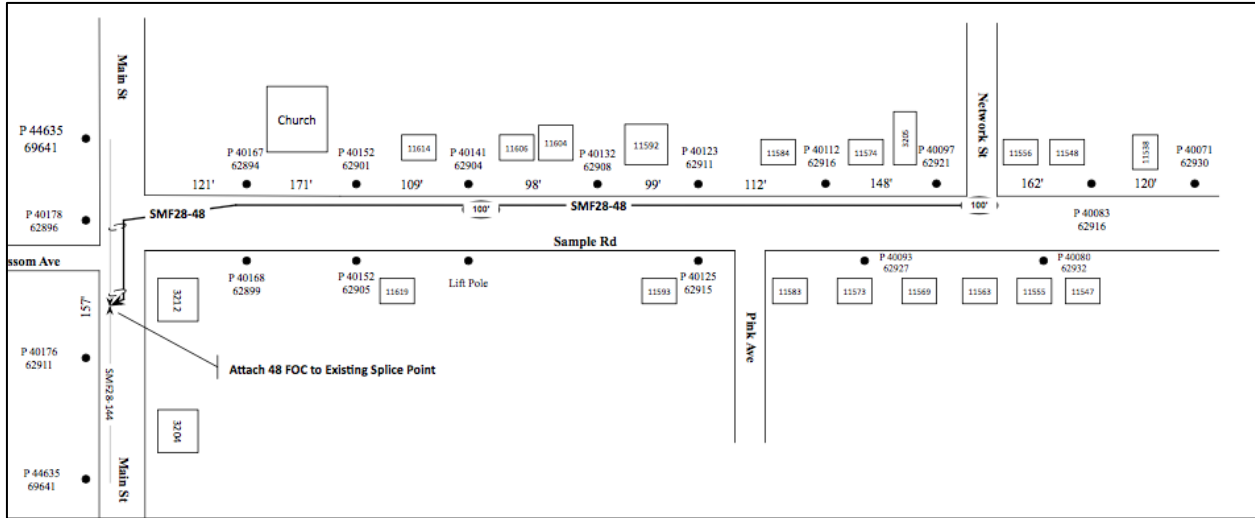


Table 1 Billing elements allotted for Figure 1 above

| <i>Line Item</i> | <i>Description</i> | <i>Quantity</i> |
|------------------|----------------------------|-----------------|
| 1001 | Install strand & hardware | 1,020' |
| 1002 | Lash fiber to strand/cable | 1,377' |
| 1005 | Install Slack Shoe | 2 |
| 1017 | Bond Strand | 2 |

Figure 2. Sample of Overlash, New Construction, and anchoring

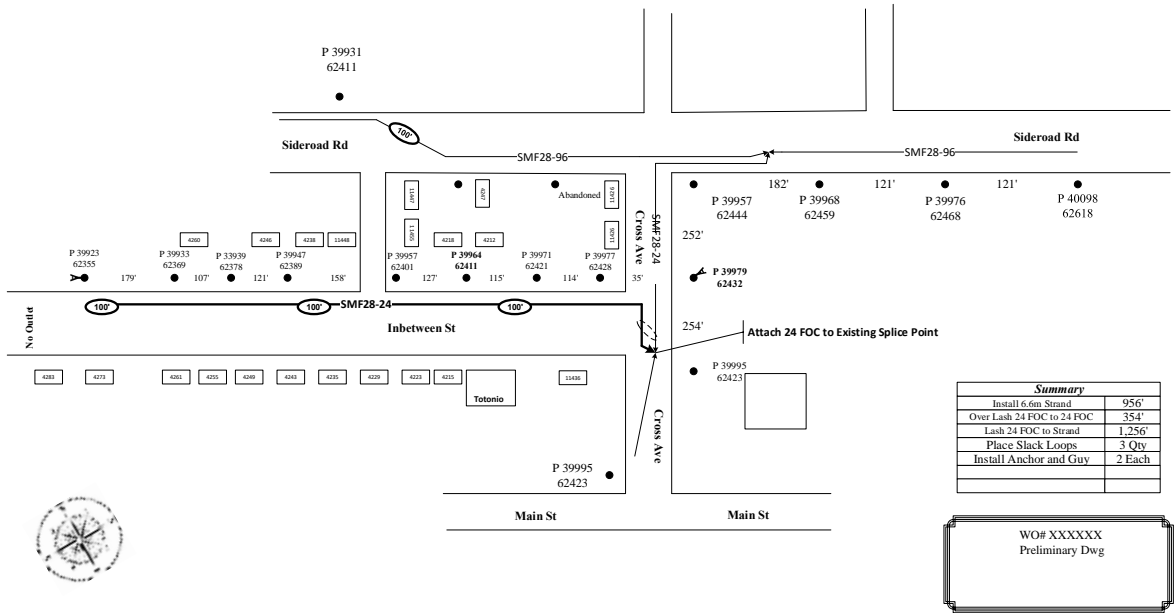
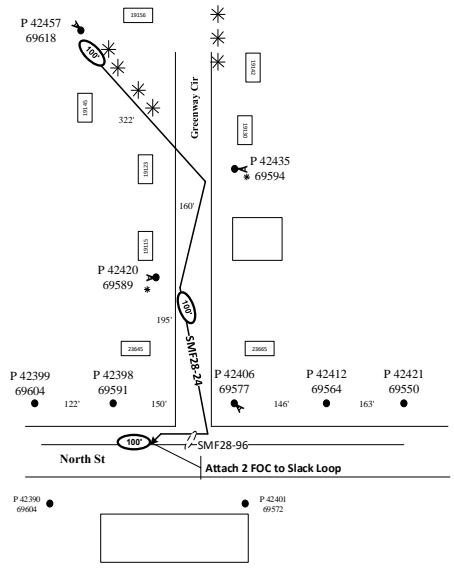


Table 2 Billing elements allotted for Figure 2 above

| <i>Line Item</i> | <i>Description</i> | <i>Quantity</i> |
|------------------|----------------------------|-----------------|
| 1001 | Install strand & hardware | 956' |
| 1002 | Lash fiber to strand/cable | 1,610' |
| 1005 | Install Slack Shoe | 3 |
| 1007 | Install Down Guy | 2 |
| 1008 | Install Guy Guard | 2 |
| 1009 | Install Anchor | 2 |
| 1017 | Bond Strand | 2 |

Figure 3. Sample of Overlash, New Construction anchoring and tree trimming



| Summary | |
|---------------------------|--------|
| Overlash 24 FOC to 96 FOC | 250' |
| Install 6.6m Strand | 677' |
| Lash 24 FOC to Strand | 877' |
| Place Slack Loops | 2 Qty |
| Install Anchor & Guy | 4 Each |

WO# 600zzz
Preliminary Dwg



Table 3 Billing elements allotted for Figure 3 above

| <i>Line Item</i> | <i>Description</i> | <i>Quantity</i> |
|------------------|-------------------------------------|-----------------|
| 1001 | Install strand & hardware | 677' |
| 1002 | Lash fiber to strand/cable | 1,127' |
| 1005 | Install Slack Shoe | 2 |
| 1007 | Install Down Guy | 4 |
| 1008 | Install Guy Guard | 4 |
| 1009 | Install Anchor | 4 |
| 1017 | Bond Strand | 2 |
| 4008 | Trimming trees/brush < 2" diameter* | 322 |

* The ESVBA will audit tree trimming to confirm actual trimming performed to before authorizing billing

Form 1: Bidder Questionnaire

GENERAL INFORMATION

1. Bidder Information:

Provide the following information regarding the Bidder.

Bidder Name:

(NOTE: Give exact legal name to be used on the contract, if awarded.)

Principal Address:

City, State, Zip Code:

Telephone No. **Fax No:**

Federal Employer Identification Number:

Payment Remit to Address: (If Different)

City, State, Zip Code:

Telephone No. **Fax No:**

Business Structure:

Check the statement that indicates the business structure of the Bidder.

Individual **or Sole Proprietorship**

If checked, list Assumed Name, if any:

Partnership

Corporation

If checked, check one: For-Profit Nonprofit

Printed Name and Title of Contract Signatory:

2. Contact Information:

List the one person who the ESVBA may contact concerning your proposal or setting dates for meetings.

Name:

City, State, Zip Code:

Telephone No. **Fax No:**

E-mail:

3. Is Bidder authorized and/or licensed to do business in Virginia?

Yes ; No If "Yes", list authorizations/licenses.

4. **Bidder corporate headquarters address:** (If different)

City, State, Zip Code:

Telephone No.

Fax No:

5. **Local Operation:**

Does the Bidder have an office located in Virginia?

Yes ; No If "Yes", respond to a and b below:

a. How long has the Respondent conducted business from its Virginia office?

Years:

Months:

b. State the number of full-time employees at the Virginia office:

6. **Virginia eProcurement Marketplace:**

Virginia eVA Vendor ID:

7. **Operations:**

a. How long has the Bidder conducted business? Years:

Months:

b. State the number of full-time employees:

Failure to Complete Job:

Has the bidder or any of its principals failed to complete a job? Yes ; No

If yes, state where and why.

Surety Information:

Has the Bidder ever had a bond or surety canceled or forfeited? Yes ; No

If "Yes", state the name of the bonding company, date, amount of bond and reason for such cancellation or forfeiture.

8. **Bank Reference:**

Bank Name:

Contact Name:

Contact Title:

Contact Telephone:

9. **Other Names:**

Provide any other names under which Bidder has operated within the last 10 years.

Dated this day of , 2014.

Signed:

Name:

Title:

Attest:

Notary

Form 2: Bidder Compliance Statement

**Bidder Compliance Statement
Certification Regarding Equal Employment Opportunity**

Applicability: Bid exceeding ten thousand dollars (\$10,000) for contract/subcontract of unlimited amount. The Firm providing goods or services to the AUTHORITY under this contract assures the AUTHORITY that it is:

Conforming to the provisions of the Civil Rights Act of 1964, as amended, the Virginia Fair Employment Contracting Act of 1975, as amended, and the Virginia Human Rights Act, as amended, where applicable.

YES NO

Not employing illegal alien workers or otherwise violating the provisions of the Immigration Reform and Control Act of 1986

YES NO

3) Complying with federal, state and local laws and regulations applicable to the performance of the services procured; and

YES NO

4) Submitting the bid or proposal in full compliance with the Virginia Conflict of Interest Act.

YES NO

I understand that violations of the foregoing certifications may constitute grounds for rejection of my bid, and termination of my contract, if awarded.

Signature: _____

Type Name:

Title:

Address, including zip code:

IRS # (or owner's social security #):

Form 3: Certification of Bidder Regarding Debarment by Agency of the Commonwealth of

**Certification of Bidder Regarding Debarment by Agency of the Commonwealth of
Virginia**

This is to certify that this person/firm/corporation has not been barred from bidding on contracts by any agency of The Commonwealth of Virginia, nor is this person/firm/corporation a part of any firm/corporation that has been barred from bidding on contracts by any agency of The Commonwealth of Virginia.

Name of Official

Title

Firm or Corporation

Date

Virginia

Form 4: Bid Bond

All bids submitted to the Eastern Shore of Virginia Broadband Authority shall include a Bid Bond in a form substantially as follows:

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS: That we undersigned, _____ as Principal (Bidder), and _____, as Surety, are hereby held and firmly bound unto the Eastern Shore of Virginia Broadband Authority as Obligee (OWNER), in the amount of FIFTY THOUSAND DOLLARS (\$50,000.00), for the payment whereof Principal and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns firmly by these presents.

WHEREAS, Principal has submitted a certain Bid attached hereto and hereby made a part hereof to enter into an AGREEMENT in writing for the Customer Premises Installations and Splicing Operations, as part of the Owner's expansion of its fiber optic network.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION is such that, if Principal shall not withdraw his Bid during the period of 90 days following the opening of Bids, and if its Bid is accepted and the OWNER and PRINCIPAL enter into a formal Contract in accordance with the AGREEMENT included as a part of the Contract Documents and that the Performance Bond and the Payment Bond be given, then this obligation shall be void; otherwise it shall remain in full force and effect and the Principal and Surety will be liable to the Obligee for the lesser of: (1) the difference between the Bid for which the Bond was written and the next low Bid, or (2) the face amount of the Bid Bond.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall be in no way impaired or affected by any extension of the time within which OWNER may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations, have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Signed and sealed this _____ day of _____ 20____ .

(Principal) Seal

(Witness) By: _____
(Name and Title)

(Surety)

Seal

Resident Virginia Agent

By: _____
(Attorney-in-Fact)

IMPORTANT - Surety companies executing Bonds must be on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the state where the Project is located.

Form 5: Performance and Payment Bond (not used)

Form 6: Notice of Award

Notice of Award

Date:

| | |
|--|-----------------------|
| Project: | |
| Owner: Eastern Shore of Virginia Broadband Authority | Owner's Contract No.: |
| Contract: | |
| Bidder: | |
| Bidder's Address: | |

You are notified that your Bid dated _____ for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for “as-needed” aerial network construction and additional labor/equipment and any additional support required for aerial network construction operations.

Six (6) copies of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

You must comply with the following conditions precedent within [15] days of the date you receive this Notice of Award.

1. Deliver to the Owner six (6) fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract security Performance and Payment Bonds in a form approved by ESVBA legal counsel.
3. Deliver with the executed Contract Documents the certificates of insurance in compliance with the requirements as specified in the General Terms and Conditions.

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited. Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

| |
|--|
| |
|--|

Owner

By: _____

Authorized Signature

| |
|--|
| |
|--|

Title

Form 7: Notice to Proceed

Notice to Proceed

Date:

| | |
|---|-------------------------|
| Project: | |
| Owner: | Owner's Contract No.: |
| Contract: | Engineer's Project No.: |
| Contractor: | |
| Contractor's Address: [send Certified Mail, Return Receipt Requested] | |
| | |
| | |

You are notified that the Contract Times under the above Contract will commence to run on . On or before that date, you are to start performing your obligations under the Contract Documents.

Owner

| |
|--|
| |
| |

Authorized Signature

| |
|--|
| |
|--|

Title

| |
|--|
| |
|--|

Date

FORM 8: REFERENCE FORM

**EASTERN SHORE OF VIRGINIA BROADBAND AUTHORITY
(ESVBA)**

Bidder: _____

Title of Bid: **AERIAL NETWORK CONSTRUCTION PROJECT – ESVBA**

Bidder must provide references for all contracts performed within the past five years of similar size and scope to this contract.

Reference 1 Name:

Address:

Contact:

Phone:

Fax:

Description and date(s) of services provided:

Reference 2 Name :

Address:

Contact:

Phone:

Fax:

Description and date(s) of services provided:

Reference 3 Name:

Address:

Contact:

Phone:

Fax:

Description and date(s) of services provided:

SECTION 6: FORM OF AGREEMENT

CONTRACT AGREEMENT

BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT

THIS AGREEMENT is by and between ESVBA (“Owner”) and _____ (“Contractor”). Owner and Contractor hereby agree as follows:

ARTICLE 1-Statement of Work

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

This Contract is for the construction of telecommunications infrastructure in the Counties of Accomack and Northampton in the Commonwealth of Virginia. The type of work includes aerial fiber optic construction, additional labor/equipment, and any additional support required for aerial fiber optic operations. This IFB is an “as-needed” contract. No minimum amounts of work or purchases of service are guaranteed.

ARTICLE 2-The Project

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

IFB No. 2022-004 ESVBA Aerial Network Construction

ARTICLE 3-Omitted

ARTICLE 4-Contract Times

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract. Generally, time limits and milestones will be stated in each individual Work Order/Task Order.

4.02 Days to Achieve Substantial Completion and Final Payment

A. The Work Orders will be substantially complete when all cable placement, splicing, and testing are completed and accepted by the Owner. When a Work Order is completed, it is ready for final payment in accordance with the conditions as set forth in the General Conditions. The Contractor shall be timely in the execution of all Work Orders as not to cause Owner any delay in revenues, loss of business, or other losses.

4.03 Liquidated Damages

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if

the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner Two Hundred Fifty dollars (\$250.00) for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner Two Hundred Fifty dollars (\$250.00) for each day that expires after the time specified for completion and readiness for final payment until the Work is completed and ready for final payment.

B. Emergency Restoration: Contractor and ESVBA recognize that time is of the essence when ESVBA's network is out of service due to fiber optic cuts and other similar situations. Contractor agrees to have personnel on site to begin such emergency restoration work with two (2) hours of notification by ESVBA. Contractor acknowledges that ESVBA will suffer financial loss if the emergency restoration work is not completed within the times specified, plus any extensions thereof allowed by ESVBA. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by ESVBA if the Work is not completed on time. Accordingly, instead of requiring any such proof, ESVBA and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay ESVBA Two Hundred Fifty dollars (\$250.00) for each hour that expires after the two (2) hours after notification by ESVBA in which Contractor's restoration personnel have not been on site. ESVBA may, at sole discretion, grant an extension to Contractor. Force Majeure events, which are beyond the reasonable control of the Contractor, may not be subject to these charges.

4.04 Term of Contract; Extensions

A. This contract shall remain in effect for a term of three (3) years, and may be extended by ESVBA for up to three (3) additional terms of one (1) year each.

ARTICLE 5-Contract Price

5.01 Owner shall pay Contractor for completion of each Work Order an amount equal to the rates contained in the Contractor's bid, multiplied by the actual quantities involved in each Work Order, and subject to the incentive and liquidated damages provisions contained in Paragraphs 4 and 5 of the General Terms and Conditions. Final determination of amounts due to Contractor shall be calculated in accordance with such provisions in the General Terms and Conditions, which document is incorporated herein by reference.

ARTICLE 6-Payment Procedures

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed by Owner as provided in the General Conditions.

6.02 Progress Payments and Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 25th day of each month during performance of the Work, and within sixty (60) days of receipt of Contractor's invoice. All such payments will be measured by the schedule of values established as provided in Paragraph 2 of the General Terms and Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements. In the event progress payments are made at a time when Owner is unable to determine if Contractor has met its monthly target, payment will be made less any incentive bonus, and less applicable retainage or deductions, and a supplemental payment will be made once owner is able to confirm whether Contractor has achieved the incentive bonus for the month in question.

B. Upon Substantial Completion of each task order, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less 20 percent of estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to a Certificate of Substantial Completion.

6.03 Final Payment

A. Upon final completion of each task order, and acceptance of the Work, Owner shall pay the remainder of the Contract Price for the task order in question, including any incentive bonuses or liquidated damages applicable to the task order, as recommended by Engineer.

ARTICLE 7-Interest

7.01 All moneys not paid when due as provided in the General Conditions shall bear interest at the rate of 4 percent per annum.

ARTICLE 8-Contractor's Representations

8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified.

E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9-Contract Documents

9.01 Contents

The Contract Documents consist of the following:

1. This Agreement (pages 1 to 6, inclusive).
2. Performance Bond (Form subject to review and approval by Owner's legal counsel).
3. Payment bond (Form subject to review and approval by Owner's legal counsel).
4. Specifications as listed in the Document Index of the Project Manual.
5. General Conditions.
6. All other Attachments as listed in the Document Index.
7. Addenda(s)
8. Contractor's acknowledgment of understanding of the IFB Documents.
9. Documentation submitted by Contractor prior to Notice of Award.
10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.

B. There are no Contract Documents other than those listed above in this Article 9.

C. Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10-Miscellaneous

10.01 Terms

A. Terms used in this Agreement will have the meanings stated in the General Conditions and Specifications.

10.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Contractor's Certifications

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05: "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution; "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

"collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 Insurance Requirements

Bidder shall provide Owner a Certificate of Insurance of and maintain for the duration of the project the following insurance coverage:

| COVERAGE | LIMITS |
|---|---|
| (a) Commercial General Liability including, but not limited to: Products Liability and Completed Operations, Premises Operations, deleting, where applicable, exclusions for underground, explosion and collapse. CGL shall include coverage for Contractual Liability, Broad Form Property Damage and Independent Contractors. | *\$1,000,000 Per Occurrence Combined Single Limit of Liability for Bodily Injury or Property Damage, with a minimum policy aggregate of \$2,000,000 |
| (b) Comprehensive Automobile Liability (including Owned, Hired and Non- owned Vehicles) | *\$1,000,000 Per Occurrence Combined Single Limit of Liability for Bodily Injury or Property Damage |
| (c) Workers Compensation, Disability Benefits, and other similar Employee Benefits Coverage in state(s) of operation | Statutory requirements. |
| (d) Employers' Liability | 1,000,000 Each Accident / Occurrence / Disease. |
| (e) Public Liability | 1,000,000 Per Occurrence |
| (f) Railroad Protective Liability | 1,000,000 Per Occurrence |

* "Umbrella" coverage providing liability insurance in excess of the coverage required by these Paragraphs (a) & (b), with a limit of not less than \$5,000,000. Insurance companies admitted in Virginia and having a current Best's rating of A- or better shall underwrite all coverage for this project.

Contractor shall provide a certificate of insurance stating the following:

Eastern Shore of Virginia Broadband Authority, their respective members, commissioners, officers, employees, and agents, are named as Additional Insured on General, Automobile and Excess Liability policies. Contractor's insurance is understood to be primary with respect to the interests of the Additional Insured, and any other insurance maintained by these Additional Insured is excess and not contributory with Contractor's insurance.

It is also agreed that the Contractor's insurance shall have no right of recovery or subrogation against Eastern Shore of Virginia Broadband Authority and that waiver of subrogation is in favor of Additional Insured's on all policies.

The Commercial General Liability policy shall be endorsed to have the General Aggregate for a "Per Project Basis" for the Eastern Shore of Virginia Broadband Authority.

Before beginning work, bidder shall provide Eastern Shore of Virginia Broadband Authority with a certificate of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on (which is the Effective Date of the Agreement).

OWNER: _____

CONTRACTOR: _____

By: _____

By: _____

Name:

Name:

Title:

Title:

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

Attest:

Title:

Title:

Address for giving notices:

Address for giving notices:

License No.:

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

NOTE TO USER: *Use in those states or other jurisdictions where applicable or required.*

Agent for service of process: