

Special Award Conditions

Award Number: NT10BIX5570039

Amendment Number: 3

1) Mitigated FONSI SAC- NT10BIX5570039 - Open Cape Corporation

Broadband Technology Opportunities Program Grant

OpenCape Corporation

Fiber Optic Network on Cape Cod and Across Southeastern New England

This BTOP Grant Special Award Condition establishes requirements applicable to implementation of the OpenCape Corporation (OpenCape) Fiber Optic Network on Cape Cod and Across Southeastern New England. The funding of the Grant is dependent on compliance with the provisions of this Special Award Condition.

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

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

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

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

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

Biological Resource Protection Protocols and Measures

Project-specific consultations were conducted with the U.S. Fish and Wildlife Service (USFWS), and OpenCape reviewed resources maintained by the Massachusetts and Rhode Island Natural Heritage and Endangered Species Program. On July 27, 2010, the USFWS indicated that they concur with [the] determination that there are no species present in the action area for this Project. Consequently, no biological resource protection protocols or measures have been specified for this Project.

Historic and Cultural Resource Protection Protocols and Measures

OpenCape conducted Project-specific consultations with the Massachusetts Historical Commission (MHC), the Rhode Island Historic Preservation and Heritage Commission (RIHPHC), the Massachusetts Board of Underwater Archaeological Resources (BUAR), the Barnstable Old Kings Highway Historic District Committee, the U.S. Army Corps of Engineers (as owner of Cape Cod Canal), and the Mashantucket Pequot Tribe in Connecticut. No unusual SAC provisions were identified during these consultations.

If, after further review, the U.S. Army Corps of Engineers determines that the directional bore under the North Canal will result in an Adverse Effect, Open Cape shall implement a contingency plan that involves routing fiber through existing conduit on the Sagamore Bridge.

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

None