

State of Nebraska
Annual Performance Report

Capital Projects Fund
2024 Report

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Executive Summary

The State of Nebraska was awarded \$128,740,178 for the fulfillment of the goals established by the U.S Department of the Treasury (“Treasury”) Coronavirus Capital Projects Fund (“CPF”). Pursuant to Neb. Rev. Stat. § 81-12,245, CPF funds provided to Nebraska were designated as follows:

1. Congressional District 1: No less than \$40,000,000 for eligible broadband infrastructure projects.
2. Congressional District 2: No more than \$35,000,000 for the rehabilitation or expansion of existing multipurpose community facilities.
3. Congressional District 3: No less than \$40,000,000 for eligible broadband infrastructure projects within cities of the second class and villages.

A map showing Nebraska’s Congressional Districts is included as Attachment A.

The Nebraska Department of Economic Development is administering the 1C – Multi-Purpose Community Facility Projects program for Congressional District 2. ¹ The Nebraska Public Service Commission (“Commission”) is administering the 1A - Broadband Infrastructure Projects program utilizing the framework of the Nebraska Broadband Bridge Program² which was established by the Nebraska Legislature in 2021 to award broadband grants to eligible entities to build out broadband infrastructure to provide service of at least 100 Mbps download and 100 Mbps upload to areas lacking service of 100 Mbps download and 20 Mbps upload or greater. ³

The Multi-Purpose Community Facility Projects program description is to provide funding for a multi-purpose community facility that enables work, education, and health monitoring in communities in Nebraska. The program objective is to utilize the multi-purpose community facility to address the social and economic challenges experienced as a result of the COVID-19 public health emergency in qualified census tracts.

The program objective stated for the Broadband Infrastructure Projects is to provide broadband service of at least 100 Mbps download and 100 Mbps upload to Nebraska residences and businesses in Congressional District 1 and 3 which currently lack reliable broadband service of 100 Mbps download and 20 Mbps upload between 2023 and 2026 through a competitive grant program.

The State of Nebraska has made significant progress towards the objectives stated for both programs. The following highlights the important events that have taken place to achieve the goals outlined in the distinct program plans.

¹ See Plan ID: CPF_GP-000177

² Nebraska Broadband Bridge Act, Neb. Rev. Stat. §§ 86-1301 – 1312

³ See Plan ID: CPF_GP-000126

1A Broadband Infrastructure Program

Project: Broadband Infrastructure Program – Nebraska Broadband Bridge Program - CPF-GP-000126

State Administering Agency: Nebraska Public Service Commission

Funding Amount: \$92,266,719.97 (revised)

Project Start Date: August 20, 2022

Project End Date: December 31, 2026

Uses of Funds

The Commission made funding available in Congressional Districts 1 and 3 for Broadband Infrastructure projects that facilitate the deployment of broadband networks in unserved and underserved areas of Nebraska. Nebraska will prioritize those investments in fiber-optic infrastructure where feasible and prioritize projects that address affordability as a barrier.

The State of Nebraska allocated at least \$40,000,000 for broadband infrastructure in Congressional District 1 which includes Lincoln, Norfolk, Columbus, and Fremont. The 12 counties of Congressional District 1 differ in their demographics and needs. County populations range from nearly 325,000 in Lancaster County to just over 5,000 in Polk County. The percent of rural population without wired broadband of at least 100 Mbps down and 20 Mbps up ranges from 10.3% in Cuming County to 85% in Madison County.

The State of Nebraska allocated at least \$40,000,000 for broadband infrastructure in Congressional District 3. In 39 of those counties, less than half of the county's rural population has wired broadband of at least 100 Mbps down and 20 Mbps up available, making it difficult or impossible for rural resident to work, participate in online education, or utilize health monitoring remotely. Compounding the challenges in District 3, 67 of the 80 counties in the district have population densities below 20 persons per square mile which increases the cost to build out broadband in the district.

Treasury approved the Commission's Plan on February 4, 2022.⁴

The [2023 Annual Performance Report](#) detailed the work undertaken by the Commission for the first round of broadband infrastructure funding. In summary, the Commission issued an [Order Issuing Grant Awards and Results of Challenges](#) on June 27, 2023.⁵ The Commission granted awards in Congressional District One to twenty-seven (27) projects for ten (10) ISP's to bring minimum 100 Mbps download and 100 Mbps upload to 3,014 locations for a total of \$40,311,361.47 in grant funding. The Commission granted awards in Congressional District Three to thirty-eight (38) projects to ten (10) ISP's to bring minimum 100 Mbps download and 100 Mbps upload to 3,735 locations for a total of \$21,033,925.62 in grant funding.

⁴ Assistance Listing Number 21.029 and Federal Award Notification Number (FAIN) CPFFN0183.

⁵ [Congressional District One](#) awards are available in our website. [Congressional District Three](#) awards are available on our website. In addition, we have made available the Scoring Summary for [District One](#) and [District Three](#) on our website.

On August 15, 2023 the Commission issued an [Order Opening Docket and Seeking Comment](#) for the second round of CPF funding for the Broadband Infrastructure Program. The first round of CPF funding resulted in more than \$40 Million in funding for Congressional District One, but less than \$40 Million for Congressional District Three. The language of the provisioning statutes requires that the Commission provide funding of “at least \$40 Million” in the respective Congressional Districts for broadband funding. Therefore, only projects within Congressional District Three were considered for funding through the second grant cycle.

The Commission sought comments to consider minor modifications to the CPF grant administration and scoring criteria. Comments were due to the Commission by September 15, 2023. Comments were submitted by Charter Fiberlink – Nebraska, LLC/Time Warner Cable Information Services (Nebraska) LLC; Cox Nebraska Telcom; Nebraska Rural Broadband Alliance, Nebraska Rural Independent Companies; Rural Telecommunications Coalition of Nebraska; and Windstream Nebraska, Inc.

After consideration of the comments filed, the Commission issued [Findings and Conclusions Order and an Order Adopting Procedural Schedule for Next Grant Cycle](#) on November 7, 2023. The challenge process previously outlined in the [2023 Annual Performance Report](#) remained in place for the second round of funding. The following is the procedural schedule as adopted by the Commission:

Event	Date
Commission releases application materials	Monday, November 20, 2023
Application period begins	Wednesday, December 20, 2023
Deadline to submit applications	Friday, January 19, 2024
Applications posted to Commission website	Wednesday, January 24, 2024
Notices of intent to challenge due to Commission and to Applicant	Wednesday, February 7, 2024
Challenges due	Friday, March 1, 2024
Commission to notify applicants of: <ul style="list-style-type: none"> 1. Defects that must be cured and of areas of overlap with other applications; and 2. Challenges received Notice of Intent to reclassify released	Wednesday, March 13, 2024
Deadline for applicants to: <ul style="list-style-type: none"> 1. Supplement challenged applications and/or submit responses to challenges; and 2. Supplement or modify applications defects and/or revise areas of overlap with other applications Community feedback responses due	Wednesday, March 27, 2024
Commission releases determinations as to credibility of partial challenges and as to reclassification of applications	Tuesday, April 16, 2024
Grant awards released ; results of remaining challenges released	Tuesday, June 4, 2024

On April 16, 2024 the Commission issued an [Order Issuing Challenge Determinations and Reclassification of Applications](#). Challenges determinations released within that order were only for partial challenges filed by the deadline outlined above. Additionally, several applications were reclassified from Priority Tier One to Priority Tier Three based on determinations of broadband availability in the proposed project areas at the time of review.

On June 4, 2024 the Commission issued an [Order Issuing Grant Awards and Results of Challenges](#). The challenge determinations released within this order were for any full challenges, involving the entire project area, that were filed by the challenger on or prior to the deadline outlined in the procedural schedule shown above.⁶ A total of sixty (60) applications were received from thirteen (13) applicants. A total of twenty-eight (28) applications were approved for funding from nine (9) applicants for a total of \$30,921,432.88 in funding awarded. With these awards, a total of 3,213 locations will have access to a minimum of 100 Mbps download and 100 Mbps upload upon completion of the approved projects.

Combined for the two funding rounds, the Commission issued awards of \$92,266,719.97 for total project costs of \$105,565,150.31. A total of ninety-three (93) projects were approved that will benefit 9,962 locations in Congressional Districts One and Three in Nebraska.

Subrecipients are held to all of the requirements under the Nebraska Broadband Bridge Program, as listed in the Act and by order of the Commission.⁷ Successful applicants are required to submit a [Grantee Acknowledgment and Attestation Form](#) and an executed [Capital Projects Fund Subrecipient Agreement, and Civil Rights Attestation](#).

As of the date of this report, all required forms for the approved applications for each project have been received for the second round of funding.

The Commission's payment structure for the Capital Projects Fund mirrors the pre-existing Nebraska Broadband Bridge Program. The Commission will pay 25% of the award amount within sixty (60) days of the issuance of the award. The next 25% will be paid nine (9) months after the issuance of the award. The final payment will be made once the project is confirmed as substantially complete and will be based on actual eligible costs. Subrecipients will be required to provide invoices, purchase orders, contracts, proof of payment and other documentation to substantiate the actual eligible cost for the approved project.⁸ The subrecipient will also be required to complete the [CPF Certification of Project Completion](#), [CPF Speed Test Certification](#) and [CPF Reimbursement Request](#).

For the first round of funding, both the first and second payments of 25% each were made during this reporting period. For the second round of funding, the first and second payments of 25% each will be made in the next reporting period. We also anticipate issuing final payment for a significant number of

⁶ Congressional District Three [summary of awards](#) are available on our website. In addition, we have made available the [Scoring Summary](#) for Congressional District Three on our website.

⁷ In particular, the deadline to complete the project is eighteen (18) months after the issuance of the award. For purposes of the second round of funding, the buildout deadline is December 5, 2025. For the first round of funding, the buildout deadline is December 27, 2024. A subrecipient can request six-month extension if good cause is shown.

⁸ Determination of actual eligible cost will be evaluated based on the requirements of 2 C.F.R. § 200.403-406, the Nebraska CPF Reimbursement Guide, and the CPF [Allowed and Disallowed Cost Examples](#).

projects from round one, depending on the date the projects are certified as complete, and a reimbursement request is received and processed.

The Commission anticipates numerous activities over the next year, as follows:

- Issuance of the CPF Reimbursement Guide (PDF), the Nebraska Broadband Reimbursement Template (XML) and a pre-recorded webinar.
- Continuing to work with Subrecipients to address any roadblocks that arise during the performance period that may hinder their ability to successfully complete the project.
- Continuing to work with the Subrecipients to monitor compliance with federal rules and regulations.

Promoting Equitable Outcomes

Equity is at the heart of the Nebraska Broadband Bridge Program, including grants funded through Capital Projects Fund. The program has a goal of bringing broadband service to areas lacking 100/20 Mbps service. Additionally, the program recognizes that areas without 25/3 Mbps service have the greatest need and prioritizes applications for areas lacking 25/3 Mbps service.

All applications received were required to include a Digital Inclusion Plan. The plan must describe the applicant's process to consult with the community and consider affordability. It must describe how the project will meet the objective of providing broadband infrastructure deployment within the project area to directly enable work, education, and healthcare monitoring. It must describe how it will address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency. It must identify any critical needs of the community to be served and how the project will be tailored to meet those needs. It must specify how the project will impact access to and use of information and communication technologies by all individuals and communities in the project area, including the most disadvantaged individuals and communities. The plan must describe the pricing structure of the 100/100 Mbps plan being offered to low income subscribers. Digital Inclusion Plans that include a discounted service plan for low-income subscribers that is less than \$50.00 per month prior to Lifeline or Affordable Connectivity Program discounts or cost less than 25% less on a monthly basis than the carrier's next lowest price plan offering, whichever is lower, were given an additional five (5) points in scoring.

The Nebraska Legislature and the Nebraska Public Service Commission have also taken steps to make more projects in very rural areas financially feasible. There is no match requirement for the Capital Projects Fund, though carriers that provide a match will receive additional points. The Commission also added location density to the scoring criteria, awarding up to 20 points to projects which serve rural areas. Points for location density were allocated as follows:

- Less than or equal to 10 locations per square mile – 20 points
- More than 10 locations per square mile, but less than or equal to 20 locations per square mile – 12 points
- More than 20 locations per square mile, but less than or equal to 42 locations per square mile – 5 points.

Projects approved range in density from 3.184716 locations to 1,055.5762 per square mile.

Labor

The subrecipients from round one are currently in different stages of project completion. None of the awards issued by the Commission are equal to or greater than \$5 Million Dollars and therefore the Bacon – Davis Act does not apply. All Subrecipients are required to comply with all applicable federal and state law pertaining to fair labor laws, etc.

Community Engagement

Community participation will be built into the program in several ways. During the legislative process leading up to the passage of LB1024, members of the state and various stakeholders had the opportunity to provide input through legislative hearings related to fund usage. In addition to participating in the legislative process, the community is also able to engage their local leaders and offer feedback on grant applications. Applications involving a public/private partnership receive additional scoring points within the review process. The state has also conducted multiple studies throughout the state to determine those areas that are underserved and unserved when it comes to broadband. By prioritizing communities in this program, the state is responding to their needs.

The Commission also participates in advisory groups such as the Nebraska Rural Broadband Task Force and the Nebraska Information Technology Commission Community Council. Meetings of these advisory groups provide opportunities for the Commissioners to engage with stakeholders.

The Commission and partner organizations such as the Nebraska Information Technology Commission and Nebraska Department of Economic Development also engage in outreach efforts such as speaking at conferences and meetings, developing resource materials, hosting webinars.

The Commission participated in monthly stakeholder meetings held by the Nebraska Broadband Coordinator which allowed interested parties to discuss overarching broadband topics of interest. These meetings were also used as an opportunity to develop a comprehensive broadband strategic plan. Updates on all broadband related activities were shared at these meetings, including the Capital Projects Fund.

The Commission conducted statewide community outreach related to broadband availability and affordability. While the primary focus of these sessions was focused on Broadband Equity Access and Deployment (BEAD) and Digital Equity planning, information related to the Capital Projects Fund was shared during these sessions. There were nearly 30 Listening Sessions during the months of April, May, and June, which were intentionally planned to be geographically diverse, and to reach out to a diverse audience. They were held in conjunction with the Office of the CIO, the entity responsible for generating the state Digital Equity Plan. Each session provided opportunities to educate attendees about various broadband and digital equity programs and share information about current broadband projects or applications within each respective community which included CPF application areas. There was also an opportunity for attendees to share what they perceive the broadband related priorities of the community to be.

Within these outreach efforts, the Commission identified a diverse group of stakeholders. Recognizing the power of local knowledge and resources, we will continue to leverage local partnerships including but not limited to the State's Economic Development Districts, Chambers of Commerce, municipal

governments, and existing nonprofit coalitions and collaboratives to reach all of these different stakeholder categories. Targeted engagement groups will explicitly include unserved and underserved communities, as determined by the PSC's ongoing mapping project. Additionally, members of historically underrepresented and marginalized groups have been prioritized in community outreach.

Applicants were also required to show community engagement when submitting their applications. Applicants were required to identify community leaders or individuals with decision-making authority within the community or communities included in the project area. Applicants were required to demonstrate engagement efforts with the proper parties. A template letter for community outreach was made available on the Commission website. Applicants were free to deviate from the template but were required to include at a minimum the following information:

- A description of the project and technology to be used;
- A description of the project area;
- The proposed speed tiers and pricing;
- The Commission's contact information for providing feedback to the Commission; and
- The deadline by which feedback must be provided.

Applicants participating in the second round of funding were required to either carbon copy the Commission or file copies of their outreach materials with their application materials due by January 19, 2024. Community feedback was considered if received on or before March 27, 2024. In the case of negative feedback, depending on the nature of the issues raised, the Commission could determine what steps were warranted such as investigating any concerns raised and working with the applicant and community leaders to find possible solutions. Depending on the nature of any negative feedback submitted, the Commission has the ability to determine whether such information merits a reduction to an applicant's overall technical capability score.

Subrecipients in round one of funding are already reporting significant community engagement efforts, depending on the status of project. Subrecipients report that they are using a variety of methods to let the community know of the broadband offers that will soon be, or already are, available to the community. These efforts include meeting with homeowner association, local government meetings, sip-n-learn, events open to the public (car shows, county fairs, etc.), billboards, direct mail, and radio advertisements.

1C Multi-Purpose Community Facilities

Project: Multi-Purpose Community Facility CPF-GP-000177

State Administering Agency: Nebraska Department of Economic Development

Funding Amount: \$35,000,000.00

Project Start Date: August, 2023

Project End Date: December, 2026

Uses of Funds

The Department of Economic Development has awarded \$35,000,000 to the City of Omaha to construct a multi-purpose community facility in Levi Carter Park. The total project cost is projected at \$45,000,000 with the City of Omaha providing the matching funds. The approved project is in an economic redevelopment area and will invest in assets designed to enable work, education, and health monitoring.

The facility will directly enable work by providing the public with access to computers and high-speed internet that will enable them to search for employment and develop the requisite skills and knowledge to become employed. A computer lab/area will be available for programmed and unprogrammed use in the facility. A separate classroom will also be outfitted for teaching opportunities.

The facility will directly enable education by providing after school and out of school programming for youth. The activities will allow youth to acquire knowledge and skills that can be used as part of their academic programs and extracurricular programming. The facility will also specifically focus on the utilization of youth sports to develop social and emotional learning in youth. The correlation between youth sports and social and emotional learning is extremely high. Examples of the overlap include the opportunities to teach teamwork and cooperation, empathy and pro-social behavior, planning and problem solving, and leadership and life skills.

The facility will be designed to directly enable health monitoring. Within the facility, patrons will be able to utilize appointment rooms, which will enable them to participate in telemedicine appointments online. Additionally, the facility will partner with local providers to facilitate annual health screenings for youth who require physicals and desire to participate in youth sports. These community health screenings will be provided by local health providers and will be available to the public.

For continued success of the project the Department of Economic Development conducts frequent check-ins with the City of Omaha to ensure compliance with policies and guidelines set forth by CPF. This is done by having check-ins, quarterly reports, and reviewing expenses.

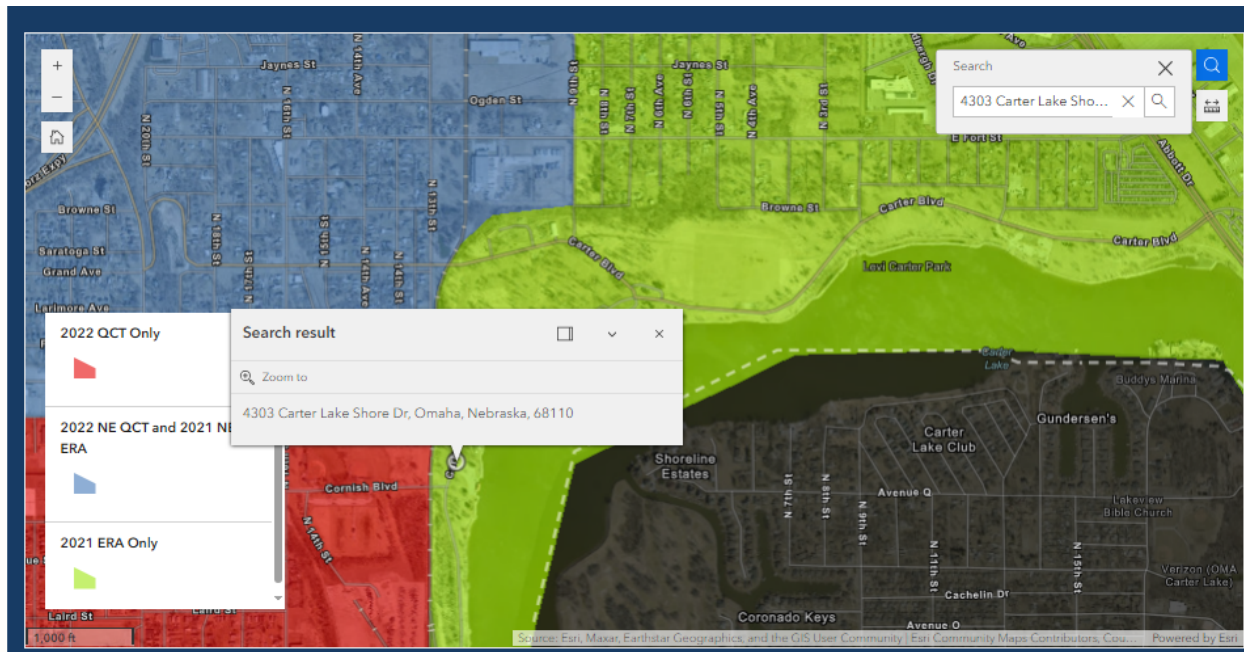
Promoting Equitable Outcomes

The Multi-Purpose Community Facilities Program grant will allow the City of Omaha to construct an approximate 100,000 square foot community facility that will serve all Omaha residents, particularly those in the northeast quadrant of the city. The population of Omaha is 486,500 as of April 1, 2020. Since multi-purpose facilities funded through this program will be accessible to the entire community,

the number of individuals estimated to be served by/use the capital assets funded through this program could be up to 486,500.

The facility will be located in Levi Carter Park, which is in an Economic Redevelopment Area and adjacent to a qualified census tract. Programming within the facility will address health and broadband connectivity disparities in the adjacent communities and provide educational opportunities. Additionally, through the implementation of youth sports, the facility will serve as a catalyst for economic development in the surrounding community.

The targeted communities for the facility are residents of North Omaha, particularly those residents located in qualified census tracts within a 2-mile radius of the facility. Qualified Census Tracts (QCTs) must have fifty (50) percent of households with incomes below sixty (60) percent of the Area Median Gross Income (AMGI) or have a poverty rate of twenty-five (25) percent or more. According to 2024 IRS Section 42(d)(5)(B), the City of Omaha has thirty-seven (37) QCTs. Twenty-one (21) of those are in the northeast quadrant of the city where the city proposes to locate the facility. All but two of the QCTs in the City of Omaha are east of 72nd Street. Levi Carter Park, which serves the northeast sector of the city, directly abuts QCT four and eight, and is within two miles of twelve (12) QCTs.



Labor

The Department of Economic Development requests the Subrecipient to adhere to strong labor standards, including the use of project labor agreements and community benefit agreements that offer wages at or above the prevailing rate and include local hire provisions. Prioritization will be given to contractors with high labor standards and those without recent violations of federal and state labor and employment laws. Additional standards may be applicable based on state statutes (i.e., Neb. Rev. Stat. Chapter 73 “Public Lettings and Contracts”) and award agreement terms and conditions.

The City of Omaha will proceed with an RFP process to select a construction manager at risk (CMAR). In the process, the City will weigh the labor availability of each firm as well as their hiring practices and ability to deliver the project on time. By engaging a construction manager at risk delivery method, instead of using a traditional design bid build, the City believes that the construction manager will be able to identify labor ahead of time and be beholden to delivering the project on time and at the guaranteed maximum price (GMP). Within the contract for the CMAR, the City will also include a provision for the CMAR to create smaller bid packages allowing small businesses to bid and opening the project to the local labor market. City requirements for contracting will also include professional certification and licensing mandates.

Community Engagement

The facility will be designed to last for at least fifty years. Within the facility, the classrooms that enable work will be part of the infrastructure. Likewise, the telehealth rooms that enable health monitoring will be built into the infrastructure of the facility. The gym areas, that will enable education through youth sports and after school programming, will also be built into the facility and cross utilized as areas that enable larger health screening events.

The City of Omaha plans to make the project financially sustainable with a solid financial plan. The City of Omaha has engaged a financial firm to create a self-sustaining model that will balance accessibility to the community with revenue generating sources that will fund the ongoing maintenance and operations. The model will allow the City to offer services to the community at a free or reduced rate. It will also allow the City to add jobs to the community and reinvest annually in the facility to ensure that it is accessible to the community for decades. Weekend programming at the facility will be designed to generate income to maintain the facility and ongoing programmatic needs. Items such as computers, printers and internet service, will be maintained and replaced at the end of their life cycle. All of sources of revenue will be generated from the facility once the facility is built. The City of Omaha will own the building and is committed to implementing a model that will guarantee the financial sustainability of the facility.

The City of Omaha will track daily usage as well as event usage. Methods of tracking daily usage include counting room reservations, computers check-outs, as well as individual log-ins to the wi-fi network. Other ways to track usage will include maintaining a list of community partners that provide services in the facility requiring they report the number of participants they are serving and the location in the city from which the participants travel. Event tracking will be monitored by fees charged for weekend usage and rentals of the facility. Economic impact will be measured by the number and value of permits requested for development in the area as well as increased sales tax revenue and property tax valuations. Other methods of tracking impact include monitoring high school completion rates, college obtainment rates, unemployment rates and poverty rates.

The facility will be accessible to public transportation as it is served by Route 16 of the Omaha Metro bus system. The facility is also .65 miles from Route 18 of the Omaha Metro bus system. The location of the facility directly abuts Qualified Census Tracts 4 and 8, and is within a mile of Qualified Census Tracts 3, 6, 7, 11 and 12.

