

January 24, 2023

To: Chairs Senator Lawrence and Representative Zeigler  
Joint Standing Committee for Energy Utilities and Technology

From: Andrew Butcher, President  
Maine Connectivity Authority

CC: Nick Battista, Chair of the Board - Connect Maine Authority

RE. EUT 2023 Agency Briefing

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Greetings Senator Lawrence, Representative Zeigler and members of the EUT Committee,

My name is Andrew Butcher, and I serve as President of the Maine Connectivity Authority. It is a pleasure to join you in person today to provide a briefing on behalf of both the Maine Connectivity Authority and Connect Maine Authority. My goal for these remarks is to update the Committee about MCA's status, activity and progress as we work toward achieving universal, affordable, and reliable high-speed internet for everyone in Maine. I know many of you have been working toward these goals for some time and are familiar with the range of issues, challenges and context—while some of you are new to the committee. I will try to strike a balance and provide context for our work together.

As you all know, The Maine Connectivity Authority (MCA) is only one year into operational capability. When I provided this report before this committee last year - I was only one week confirmed. It has also only been six months since we received approval from the Department of Treasury to deploy \$150M of American Rescue Plan - Capital Projects Funds.

I am pleased to report that while MCA is still rapidly building out capability and staffing, we are fully functional and working towards statutory goals and strategic objectives at an impressive pace. Before I outline the progress made in the last year - I want to articulate the problems we are trying to address.

1. As of June 2022, approximately **116,118 locations (18% of households and businesses) in Maine don't have access** to high speed internet (broadband as defined in Maine as 100/20mbps).
2. Only **15% of locations in Maine (100,236) actually have high-speed internet** service.
3. 238,710 households in Maine are eligible for federal assistance for internet service through the Affordable Connectivity Program, yet **only 26% (62,188) are enrolled.** <sup>1</sup>
4. Maine has **the highest percentage of rural residents in the country**, which is a significant factor given the topography and challenges in providing service to a dispersed populace. <sup>2</sup>

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<sup>1</sup> Affordable Connectivity Program Statistics: <https://www.educationsuperhighway.org/no-home-left-offline/acp-data/#dashboard>

<sup>2</sup> Source: U.S. Census Bureau, [2011-2015 ACS 5-year estimates](#)

*\*While these data points help paint an important picture, the ground is shifting beneath our feet as the data is getting updated and refined as we speak. (More on that as we discuss FCC mapping.)*

Clearly, we have our job cut out for us. Fortunately, Maine has a legacy of being creative and effective in working towards increased connectivity by embracing a community-driven approach to aggregate demand and accelerate public-private partnerships yielding a blend of public and private investment. This “Maine Model” has been recognized nationally and was a key ingredient prompting the 2020 \$15M Bond for Better Internet supported by 75% of the voters. It was further verified by a \$28M competitive grant in 2021 from the National Telecommunications and Information Administration (NTIA). With this momentum, you—the legislature—recognized the need for a more proactive, nimble and flexible agency for the future of broadband investment.

The Maine Connectivity Authority (MCA) was formed and approved in June 2021 as a new, independent, free-standing quasi-governmental agency. MCA was intentionally designed to ensure seamless alignment with the State’s existing broadband office ConnectMaine, which is housed within the Department of Economic and Community Development. An initial approach to integration was executed in January 2022 with a memorandum of understanding between the two agencies; the commitment of \$10M of funding by MCA to Connect Maine’s Spring grant round; and ultimately, the development of a “co-location integration agreement” in July 2022. This agreement has temporarily assigned duties, responsibilities and funding from ConnectMaine to the Maine Connectivity Authority, effectively creating a “single-door solution” for all stakeholders. Consequently, I am submitting this report on behalf of both agencies and am joined by the Chair of Connect Maine and you will be hearing from DECD Commissioner Heather Johnson in short order.

The last piece of context is an overview of MCA’s funding and timeline.

- \$21M through the Maine Jobs and Recovery Program
- \$129M through the Capital Projects Fund via the U.S. Dept. of Treasury (the required Grant Plan was approved in July 2022).
- \$100M through the Bipartisan Infrastructure Law’s Broadband Equity Access and Deployment (BEAD Program) - to be allocated after July 2023.
  - \$5M of those funds have been made available for the creation of a Broadband Action Plan
- \$130M (estimated) - after June 2023, The National Telecommunications and Information Administration (NTIA) will make an additional BEAD allocation based upon the determination of need in the state (pending confirmation of the FCC’s map.)
- \$53M of previous Connect Maine projects and contracts are being managed, tracked and coordinated.

\* See Appendix A for a more detailed breakdown of funding.

### **Key Accomplishments and Milestones**

With that important context, I want to briefly outline some of MCA’s key accomplishments and milestones before I walk through our anticipated activities and priorities in the coming year.

- Since 2018, Maine has funded \$64M of broadband projects covering 48,000 locations, with the bulk of those in the last 18 months. (This decreases the # of unserved locations by half as projects are completed.)
- MCA is currently deploying and managing \$195M in funding while facilitating federally mandated planning processes to inform an additional infusion of funds expected to be approximately \$230M.
- MCA has contracted with and is supporting Regional & Tribal Broadband partners from every region in the State to coordinate this planning work with a focus around digital equity.. These thirteen organizations are great resources for you and your constituents.
- This month, the Maine Connectivity Authority filed 129,000 location and availability challenges (20% of all serviceable broadband locations in the state) where the Federal Communications Commission (FCC) thought there was service, but we know there isn't. The maps that result from the challenge process will form the basis for the federal BEAD funding allocations.
- Last week the MCA board approved \$34M of grants (the single largest investment for broadband in Maine ever) to 12 regional scale public-private partnerships through the first round of our Connect the Ready infrastructure grants. These awards will provide service to 16,000 locations by 2025 and leverage \$17M of private investment. With \$105M of requested funds for this round, we anticipate additional funding rounds later this year.

### **Keys to Success As We Look Forward**

1. Provide connectivity services where none exists, so no one is "left in the dark."
  - a. Progress on this front is well underway with MCA's \$150M All-In programming, including **Connect the Ready** grants ([maineconnectivity.org/connect-the-ready-grants](https://maineconnectivity.org/connect-the-ready-grants)) and **Reach Me Line Extensions** ([maineconnectivity.org/reach-me](https://maineconnectivity.org/reach-me)), which will proactively layer varied approaches.
  - b. Further, MCA has funded three wireless pilot projects through the **Jumpstart Connectivity Initiative** ([maineconnectivity.org/jumpstart](https://maineconnectivity.org/jumpstart)), providing basic connectivity for thousands of locations in Aroostook, Somerset, Piscataquis, and Waldo Counties.
    - i. Construction is underway and will be complete by the end of Q1 2023.
    - ii. Funding by \$1M from Maine Jobs Recovery Plan
    - iii. \*The service enabled by these projects should be regarded as "first step" for locations that aren't ready for long-term solutions, and will be vital in achieving the Governor's goals.
  - c. MCA is one of two states working with Education Superhighway (<https://www.educationsuperhighway.org/>) to design and deploy a state-branded campaign to increase enrollment in the Affordable Connectivity Program (monthly benefit of \$30 for internet service for eligible households). The MCA branded mobile-friendly website that walks the individual through the process and gives them a checklist for getting enrolled will launch in March.
2. Make the most of this once-in-a-lifetime opportunity to invest in infrastructure for the future, moving beyond service that is "good enough."

- a. To help support our last mile needs, we have designed, developed and **submitted a \$30M competitive grant proposal** to NTIA as a part of our proposed \$53M middle mile project ([maineconnectivity.org/middle-mile](https://maineconnectivity.org/middle-mile)) with the University of Maine, Maine Department of Transportation and others. This plan includes building 530 new miles of backbone (middle-mile) infrastructure to increase the sustainability and reliability of our internet infrastructure. Not only will this ensure more affordable last-mile connectivity, but this initiative will also ensure that the State will be able to sustain efforts to maintain ongoing connectivity improvements. Our proposal is currently under review and should be considered a game-changer for the State.
- b. Based upon Federal funding standards, The majority of MCA's funds are oriented towards technology to enable 100/100 mbps universally in all funded areas.
3. Community capacity at a regional scale is critical to enable strong public-private partnerships and to leverage private capital.
  - a. To build upon the "Maine Model," MCA has designed, developed and launched the **Get Ready Community Support and Technical Assistance** program to help communities prepare for infrastructure deployment. In December, MCA awarded 12 Technical Assistance Planning Grants to 24 communities. ([maineconnectivity.org/get-ready-community-support](https://maineconnectivity.org/get-ready-community-support))
  - b. Additionally, To ensure capacity as we seek to expand digital equity, we have designed, developed and launched the **Regional & Tribal Broadband Partners** to invest in **regional capacity for digital inclusion** planning, engagement and infrastructure development. This fall, MCA awarded 13 Regional & Tribal Broadband Partners representing every region in the State. ([maineconnectivity.org/regional-broadband-partners](https://maineconnectivity.org/regional-broadband-partners))
4. It is necessary to plan and implement in parallel.
  - a. While we deploy \$150M of ARPA funding, we must prepare for the next wave of federal infrastructure funds. To that end, MCA has proposed, secured and deployed \$5.5M of planning funding towards the creation of a **Broadband Action Plan (BAP)** ([maineconnectivity.org/planning](https://maineconnectivity.org/planning)). This plan will lay the groundwork for an updated strategy and funding roadmap for Broadband Equity Access and Deployment (BEAD) and Digital Equity funding through the BIL. We anticipate Maine's allocation of BEAD funds to be approximately \$230M and to be available no earlier than 2024.
    - i. This integrated planning process is anchored in digital equity and we have developed an extensive stakeholder engagement strategy. If possible I would welcome a dedicated presentation to this committee to describe in more detail how the plan will inform the funding allocation to the state.
    - ii. Because is likely that BEAD / Digital Equity funds for implementation will not flow until 2024, MCA is proactively working with partners throughout the state to diversify the available capital stack necessary to advance construction.
  - b. One of the most difficult challenges of our work is trying to understand what the needs of the future may be. This is fundamentally a question of digital equity. How can people access, afford

and adopt the technologies to thrive in all domains of their life to achieve their full potential?  
Thinking critically about these needs informs our infrastructure needs now and in the future.

5. To execute the goals and objectives in the MCA strategy and meet the funding requirements from the federal government, the agency is accelerating organizational development with an aggressive hiring plan balanced with the utilization of contracted expertise. Key highlights of the operational strategy are outlined below in accordance with the enabling statute for the Authority.
  - a. MCA staff are not state employees. This means we need to staff up quickly to receive, deploy and manage \$400M of federal funds. Further, it means that staff do not have the longevity or long-term benefit that traditional state employees receive.
  - b. MCA was designed to be proactive and agile, which is essential as there is a rush around the country to populate state broadband departments.
    - i. Twelve of the anticipated 20 Full Time Employees have been hired. See the current Organizational Chart in Appendix C.
      1. One reason for the hiring timeline is the urgency of starting an agency from the ground up and the unique administrative challenges requiring an entrepreneurial team with the capability of building a strong administrative body.
      2. Any state who is being strategic and proactive (more than just conveying funds to the largest ISPs) will need staffing of comparable level to MCA according to a recent analysis by the [Pew Charitable Trusts](#) which found that *"State broadband offices, will need an immediate surge in staffing along with permanent capacity to ensure that they are able to support efforts to close the digital divide now and into the future."*
    - ii. Currently, all staff are supported by federal funding.

In addition to the primary report please see the related appendices - many of which have been hyper linked in this document for your ease of reference.

1. [Appendix A](#): Funding & Timelines
2. [Appendix B](#): MCA's Strategic Summary
3. [Appendix C](#): MCA's Organizational Chart
4. [Appendix D](#): Service Contract between Maine Connectivity Authority and Connect Maine

Thank you, and as always, and I welcome the opportunity to present before the committee at your convenience, and welcome any questions you may have.

In Service,



Andrew Butcher, President  
[abutcher@maineconnectivity.org](mailto:abutcher@maineconnectivity.org)  
207.209.3868

**APPENDIX A FUNDING & TIMELINES**

American Rescue Plan

- Maine Jobs and Recovery Program: \$21M Received and deployed and to be committed by 2024
- Capital Projects Fund: \$129M - Received and funding plans approved. Funds to be fully deployed by 2025. Deployed and to be committed by 2026
- MCA has blended these funding sources in the “All-In” initiative to support a strategic and streamlined deployment of funding.

Bipartisan Infrastructure Law

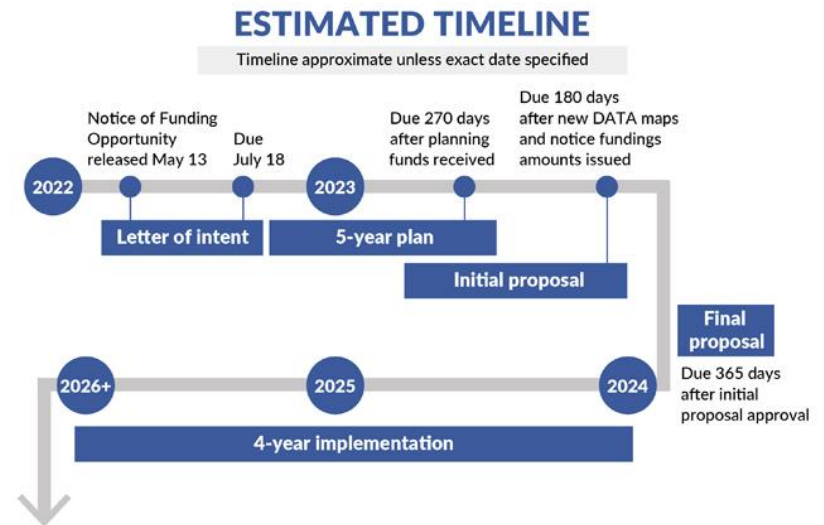
Broadband Equity Access and Deployment (BEAD)

- Planning: \$5M - Received and deployed. Action Plan to be completed by July 2023. The plan must be approved by NTIA to receive Implementation funds
- Implementation: \$95M - estimated reception January 2024.
- Additional Implementation Funds: Estimated \$130M. These funds will depend on the FCC’s June 2023 maps and NTIA’s administrative rules.

Digital Equity Act

- Planning: \$542k to inform digital equity strategy, capacity needs and implementation strategy
- Implementation funds: Estimated \$2-5M.

Figure 2  
**NTIA Expects BEAD Implementation to Take Roughly 4 Years**  
Estimated timeline for proposal development and funding allocations



Source: National Telecommunications and Information Administration, “The Broadband Equity, Access, and Deployment Program: Program Details for Applicants” (webinar, May 2022), <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-06/June-1-Webinar-Presentation.pdf>

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2020 Bond Funds: The final allocations of the \$15M bond were awarded in the Spring of 2022, and MCA is administering all contracts, including verification and validation of project completion, on a rolling basis.

Connect The Ready - Mountains To Sea: \$28M awarded in May 2021. Construction underway - anticipated completion of over 12,000 Connections by Summer 2023.



OBJECTIVE	STRATEGY	ACTIVITY	Project / Initiative	PERFORMANCE MEASURE	Roles - Responsibilities	Status	
Optimize Broadband Deployment	Support Middle Mile Investments	Leverage <a href="#">Broadband Intelligence Platform (BIP)</a> to identify routes and facilities	Accelerate Impact Mapping	aggregate data into central platform			
		Convene ISPs and other stakeholders to identify barriers to shared infrastructure			BD	Discussions with various stakeholders (ISPs, end users) ongoing	
		Own/Co-invest in assets, e.g., build aggregation for carrier hotels, lower transport costs, build whole sale exchange points	<a href="#">Middle Mile Concept</a>	Decrease cost for deployment on the last mile. Increase redundancy, Provide backhaul in places where not available today	BD, SM	Consultant will be engaged by end of June Discussion with public sector entities and private sector participants re partnership	
		Convene stakeholders to reduce barriers			BD		
		Identify financing sources for plan			BD, DW		
		Explore IEP/Peering solutions			BD		
		Support pole administration upgrade	PUC Process / <a href="#">Pole Access &amp; Education</a>	Decreased cost for deployment and management. Successful model for thirdparty administration	BD		
		<a href="#">Convene and support workforce initiative</a>	Connectivity Works (Name TBD)	Jobs created, training developed Capacity to deploy funding via industry partnerships, Added value to state econ. dev goals	MDB, AB, new staff?	1. Industry assessment - need to identify contractor (Potential multi-state collaboration), 2. support training program w/MCCS. 3. Support industry convening and	
	Aggregate data, demand and resources to guide and direct collaboration and investment	Facilitate Broadband Master Plan process through regional partnerships through standardized data collection and priority setting	AIM & Engage. BEAD <a href="#">NOFO</a> . BEAD <a href="#">planning application</a> .	Coordinated regional plans, engaged stakeholders, identified areas of priority for last mile support	Stephenie to support <a href="#">articulation of broadband impact</a> , aligning with MCA goals and CPF Plan, identifying measures, etc. Maggie to support MCA staff in public engagement, aligning with Digital Equity Plan process.		
		Reconfigure FiberMap data layers in the Broadband Intelligence Platform, updating analysis layers toward prioritizing areas based on new funds	<a href="#">Broadband Intelligence Platform</a> / Reach ME programs	Identified priority last mile locations and priority middle mile projects toward grants program and pilot projects.	Stephenie to oversee target analysis and transition of BIP to MCA. Andrew to support making data decisions. Colby to coordinate partner agencies and data sharing.		
		Shift data collection from industry solicitation to collaborative engagement and crowdsourcing, and launch new public viewer	<a href="#">Broadband Intelligence Platform</a> / BEAD applications	Gather better data toward visualizing (possibly challenging) broadband service availability	Stephenie to lead <a href="#">articulation of impact</a> for BEAD needs. Andrew to support making data decisions. Colby to coordinate partner agencies and data sharing. Maggie to support engagement efforts.		
		Develop and Deploy <b>financing solutions</b> to extend resources and support investment	Establish investment policy and partnerships				
			Craft lending program				
			Evaluate bonding capacity and strategy				
<a href="#">Facilitate &amp; Manage Partnerships and collaborations to maximize impact</a>	Engage other state entities for collaboration and standardization. (DOT, FAME, MTI, EMT,)	<a href="#">DOT Shared Services / AECOM project</a>	Shared staffing, revenue generation, middle mile to leverage for last mile, technology diversification, data	ME DOT Broadband Liason to serve as primary point of contact. Implications for middle mile working group and data analysis capacity			
	Establish an innovation advisory committee to outline priorities for research and development	<a href="#">Jumpstart Connectivity Initiative</a>	diversity of projects and technologies providing last mile service in otherwise unserved rural locations	CFB: Jumpstart PM*; AB / MDB to layer in Innovation Committee for future wrk.	Jumpstart pilot projects under technical and funding eligibility review. Estimated announcement August 2022.		
	Establish a customer relationship management system & grants portal	<a href="#">Broadband Intelligence Platform</a>	Interface with potential grant applicants and recipients, and broadband partners and local leaders, and communicate with industry and observers	Grants Manager to start in July 2022			
Prioritize <b>Impact Targets for healthcare, education and economic development</b>	Engage Maine Telehealth / Telemontoring Advisory Group		Development of a digital health strategy		To convene key stakeholders in fall of 2022 to hone and refine priorities. Collaboration with Danielle Louder		

OBJECTIVE	STRATEGY	ACTIVITY	Project / Initiative	PERFORMANCE MEASURE	Roles - Responsibilities	Status
<b>Reach the Last Mile</b>	<u>Streamline, standardize, accelerate last mile planning, development, deployment</u>	Dedicate CPF toward April 2022 ConnectMaine grants, contracting with those recipients; host workshop for grant recipients to understand compliance measures and reporting requirements	<a href="#">ConnectMaine Broadband Infrastructure Grants</a>	Accelerated last-mile deployment; grants verification and validation process ensures compliance with funds and performance measures are met	Stephenie to lead workshop and work with David on contracts	Projects contracted
		<u>Establish Prioritization strategy to maximize impact and co-benefits, refining the Broadband Infrastructure Grants program and engaging public in master plan process</u>	<a href="#">Reach ME / Last-Mile Infrastructure Grants Program</a>	Public and industry engagement in refining grants program, toward application for Broadband Master Plan and toward launching new grants program	Stephenie to lead refinements process, including Andrew on decision-making, David on compliance and Maggie on engagement efforts	program design in motion to be honed in July 2022
		Contract or <a href="#">MOU</a> with ConnectMaine to transition active Broadband Infrastructure Grants	<a href="#">ConnectMaine Broadband Infrastructure Grants</a>	Ensure last-mile deployment, optimizing broadband expansion; grants verification & validation process ensures grants performance measures are met	Lib drafting documents, David working with staff on budgets; Stephenie to communicate with recipients and lead transition	
		<u>Develop program for line extensions</u>	<a href="#">Reach ME / Last-Mile Infrastructure Grants Program</a>	Streamline and ensure universal broadband access; reduced and no outlying, year-round potential subscriber locations	Stephenie to lead strategy discussions and program development	
	<u>Increase Public awareness and knowledge; ensure pipeline outreach for community-driven broadband solutions</u>	<u>Community outreach and engagement</u>	<a href="#">Broadband Intelligence Platform</a> , BEAD	widespread engagement in refinements and master plan processes	Contract with ConnectMaine, then Maggie & Stephenie will divide and conquer	
		<u>(Re)start pipeline outreach</u>	<a href="#">Community Broadband Planning Support Program</a>	More grants applicants than supply of funds	Maggie & Stephenie to co-design new programming and grants	
	<u>alternatives strategy for un-connected and remote locations</u>	Establish methodology, intelligence, and strategy to identify and connect remote and un-connected locations through short-term non-wired solutions	<a href="#">Jumpstart Pilot Projects</a>	Connections enabled where not previously possible.	Colby and consultant on wireless projects; Maggie supporting relationships and application process; Stephenie supporting award and contracting process; David supporting financial review and compliance process.	
	<u>Establish resource bank for technical assistance and shared services</u>	Community engagement and planning support, transition from ConnectMaine, including Boosters contract	<a href="#">Community Broadband Planning Support Program</a>	Impactful collaboration with Maine Broadband Coalition	Contract with ConnectMaine, then Maggie & Stephenie will divide and conquer	
		procure and make available suite of services including data analysis, network design, legal, financial consulting and compliance mgmt	Community Broadband Planning Support Program / <a href="#">Broadband Utility Districts</a>	Establish central hub of information sharing; RFP or implement support for BUDs	Contract with ConnectMaine, then Maggie & Stephenie will divide and conquer	
		<u>Increase resource sharing; enhance knowledge hub, including Centralize funding and financing to enable community driven solutions</u>	Boosters, Community of Practice, <a href="#">Broadband Utility Districts</a>	integrate CRM, BIP, websites	Maggie & Stephenie to co-design new programming and grants	
		bulk-purchasing of materials and supplies				



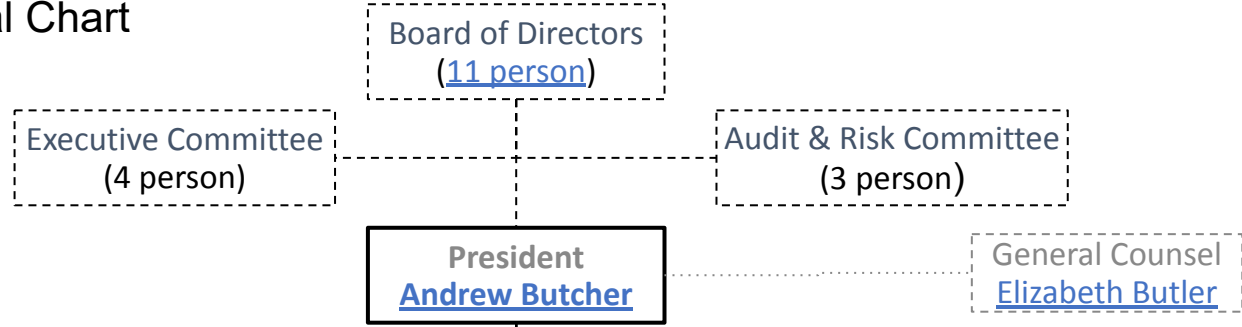
OBJECTIVE	STRATEGY	ACTIVITY	Project / Initiative	PERFORMANCE MEASURE	Roles - Responsibilities	Status
<b>Advance Digital Equity For All</b>	<b>Establish Digital Equity Plan</b>	Create multi-criteria decision making tool to prioritize in disproportionately underserved places.	<a href="#">Digital Equity Plan NOFO.</a>	BEAD addresses both unserved and underserved	Maggie taking lead on public engagement process	
		Leverage support for development of digital equity plans through targeted and ongoing stakeholder engagement	<a href="#">Digital Equity Taskforce</a>	diverse representation informing application and planning process	Maggie setting up task force	
	<b>Maximize participation and utilization of available affordability programs</b>	Leverage subsidies to prioritize places and partners for investment	Broadband Master Plan	Poverty data influences broadband investment zones		
		Aggregate affordability program and support services				
	<b>Engage multi-sector partners to integrate broadband development into other plans and strategies</b>	Climate resilience	BEAD 5 year Action Planning			
		Affordable housing				Engagement with Affordable Housing partners started in June 2022
		Transportation				
		Establish Inclusive Innovation Fund				
	<b>Prioritize investments for impact</b>	Identify sector focused benchmarks	Research partnerships in development			
		Establish a device and equipment lending partnership				
Facilitate place-based analysis to identify priority community facilities as Community hubs		Broadband Intelligence Platform	Anchor institutions data influences broadband investment zones			

# Appendix C: MCA's Organizational Chart

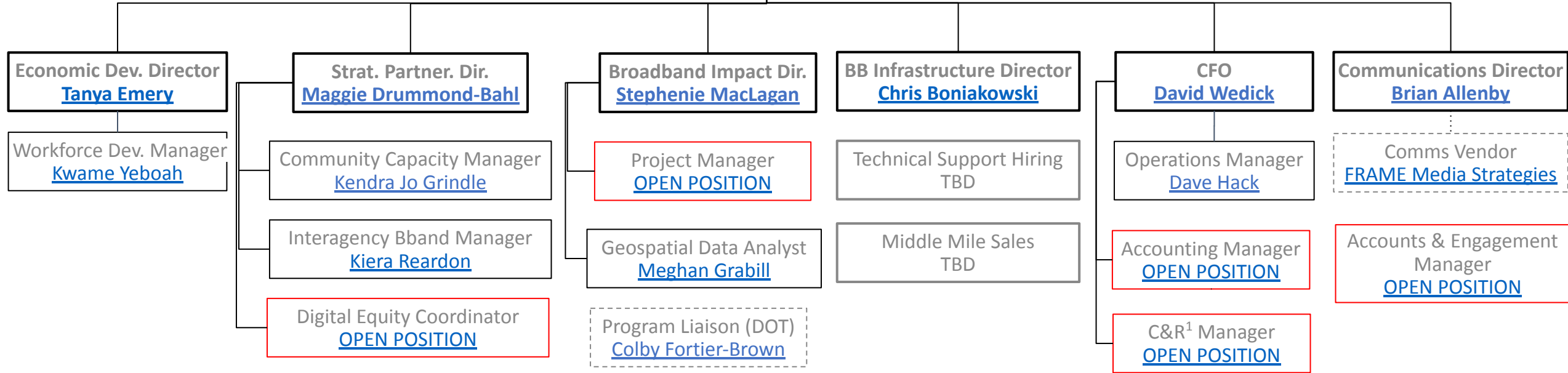


**MAINE  
CONNECTIVITY  
AUTHORITY**

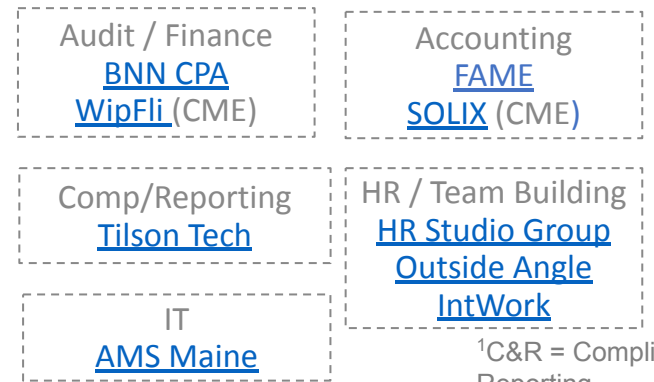
MCA Staffing & Resource Plan  
January 2023



Additional FY23 budgeted positions  
2 x Technical Experts - based on organizational needs



- = MCA senior team
- = MCA employee
- = MCA governance
- = Contracted support



<sup>1</sup>C&R = Compliance & Reporting



SERVICE CONTRACT

DATE: 7/15/2022

DEPARTMENT AGREEMENT #:

PROJECT OR PROGRAM: ConnectMaine Authority and Maine  
Connectivity Authority Services Integration Agreement

CONTRACT AMOUNT: (estimated): \$39,823,651 (FY 23, 24 , 25) federal and state funds

START DATE: 7/15/2022

END DATE: 6/30/2027

**State of Maine DEPARTMENT**

DEPARTMENT: **The ConnectMaine Authority**

Address: **59 SHS**

City: **Augusta**

State: **ME**

Zip Code: **04330**

**PROVIDER**

PROVIDER: **The Maine Connectivity Authority**

Address: **59 SHS**

City: **Portland**

State: **ME**

Zip Code: **043303-0059**

The provider shall provide ConnectMaine with a completed W-9 Form prior to receiving funds and may also be required to provide its TIN or state of Maine vendor code: **W-9 Required**

Each signatory below represents that the person has the requisite authority to enter into this Contract. The parties sign and cause this Contract to be executed.

**The ConnectMaine Authority**

Handwritten signature of Nicholas Battista in black ink.

**Nicholas Battista**  
**Chairman**  
**Board of Director**

**July 20, 2022**

**The Maine Connectivity Authority**

Handwritten signature of Timothy Schneider in black ink.

**Timothy Schneider**  
**Chairman**  
**Board of Directors**

**July 20, 2022**

## DEPARTMENT AND PROVIDER POINT OF CONTACTS

CONTRACT ADMINISTRATOR: The following person is designated as the Contract Administrator on behalf of the Department for this Contract. All financial reports, invoices, correspondence and related submissions from the Provider as outlined in Rider A, Reports, shall be submitted to:

Name: **Nicholas Battista,**

**Chairman, Board of Directors**

Email: **Connect.ME@maine.gov**

Address: **59 SHS**

State: **ME**

Zip Code: **04330**

City: **Augusta**

Telephone: **207.624.9849**

PROVIDER CONTACT: The following person is designated as the Contact Person on behalf of the Provider for the Contract. All contractual correspondence from the Department shall be submitted to:

Name: **Andrew Butcher**

Email: **abutcher@maineconnectivity.org**

City: **Portland**

State: **ME**

Zip Code: **04101**

Telephone: **207-209-3868**

OTHER CONTACT: Optionally, the following person is identified in the grant application as a primary point of contact for the project or applicant. All project-related correspondence should be copied to:

Name

State:

Zip Code:

**RIDERS**

@	The following riders are hereby incorporated into this Contract and made part of it by reference: (check all that apply)
<input checked="" type="checkbox"/>	Funding Rider
<input checked="" type="checkbox"/>	Rider A – Scope of Work
<input checked="" type="checkbox"/>	Rider B – Terms and Conditions
<input checked="" type="checkbox"/>	Rider C - Exceptions
<input type="checkbox"/>	Rider D – Intentionally omitted
<input type="checkbox"/>	Rider E – Intentionally omitted
<input type="checkbox"/>	Rider F – Intentionally omitted
	Rider G – Intentionally omitted



**FUNDING RIDER**

**Internal Purposes Only**

CODING: (Departments - Attach separate sheet as needed for additional coding.)

**NBRC21GBME01**

LINE TOTAL	FUND	DEPT	UNIT	SUB UNIT	OBJ	PROGRAM	PROGRA M PERIOD	BOND FUNDING	FISCA L YEAR
	z24501	19a							

Funding Total: \$ xxx

**All CME State General Funds and Dedicated Special Revenue Funds will be directed to MCA. MCA will administer CME Federal Funds.**

The sources of funds and compliance requirements for this Contract follow:

\$

**Projected CME disbursements**

	FY23	FY24	FY25	TOTAL - FY23-FY25
	Budget	Projected	Projected	
<b>Projected CME Disbursements</b>				
Bond funds	\$11,360,704	\$0	\$0	<b>\$11,360,704</b>
NTIA grant program	\$27,381,707	\$0	\$0	<b>\$27,381,707</b>
NECEC	\$1,002,740	\$0	\$0	<b>\$1,002,740</b>
NBRC - Broadband Intelligence Platform	\$78,500	\$0	\$0	<b>\$78,500</b>
<b>TOTAL CME disbursements</b>	<b>\$39,823,651</b>	<b>\$0</b>	<b>\$0</b>	<b>\$39,823,651</b>

**RIDER A  
SCOPE OF WORK**

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- I. ACRONYMS/DEFINITIONS**
- II. INTRODUCTION/OVERVIEW**
- III. DELIVERABLES**
- IV. REPORTS**
- V. GENERAL**

**I. ACRONYMS/DEFINITIONS**

The following terms and acronyms shall have the meaning indicated below as referenced in this Contract:

<b>COMMONLY KNOWN ACRONYMS AND DEPARTMENT ABBREVIATIONS</b>	
<b>CME Statute</b>	<b>35-A M.R.S.A. Chapter 93</b>
<b>Contract</b>	<b>Formal and legal binding agreement</b>
<b>Department</b>	<b>The ConnectMaine Authority</b>
<b>MCA Statute</b>	<b>35-A M.R.S.A. Chapters 94-A</b>
<b>Provider</b>	<b>The Maine Connectivity Authority</b>
<b>State</b>	<b>The State of Maine</b>
<b>Rule</b>	<b>ConnectMaine Authority Rule, 99-639 Ch. 101</b>

1. The additional terms and definitions set forth in the CME Statute and the MCA Statute shall have the same meaning in this Contract.

**II. INTRODUCTION/OVERVIEW**

2. CME is a body corporate and politic and a public instrumentality of the State of Maine established in 2006 (PL 2005, Chapter 665§3) by 35-A MRS Chapter 93, section 9203(1) to further the goals of State of Maine broadband policies described in section 9202-A, including: universal access to broadband throughout the State of Maine; establishment of

secure, reliable, competitive, sustainable and forward-looking infrastructure to meet the needs of future broadband needs; and enabling residents, businesses and institutions to take full advantage of economic opportunities available through broadband service.

3. MCA is a body corporate and politic and a public instrumentality of the State of Maine established in 2021 (PL 2021, Chapter 364) by 35-A MRS Chapter 94-A, section 9404 to carry out the powers conferred by Chapter 94-A as an essential governmental function, and to achieve the State connectivity goals set forth in section 9403, including all the CME goals described above, as well as making high-speed connectivity universally available in the State and assuring that existing public and private infrastructure be used efficiently in the public interest to provide advanced communications technology infrastructure in all areas of the State.
4. The Parties agree that functional integration of MCA and CME operations is the best course to ensure efficient and well-coordinated broadband planning and oversight services. A single unit with full responsibility for broadband will streamline and improve organizational structure and operations, while simplifying engagement with Maine citizens, federal government, and regional organizations.
5. Given the short time remaining to meet the State's policy goal of universal service by 2025, it is essential that MCA/CME focus all operational resources on planning and implementation of projects needed to secure universal access.
6. The Parties agree that CME operations should become a co-located operational unit of MCA, functioning as an integral part of MCA operations and under the supervision of MCA President, while remaining under the oversight of the CME Board of Directors.
7. Streamlined operations and financial resources will maximize efficiency in coordination with local governments in broadband network planning and in grant administration, enabling MCA to accelerate the pace of planning/funding of projects serving underserved/unserved areas; and to assure ongoing alignment of CME and MCA policies critical to achieving the 2025 universal access goal.
8. This "single door" solution will simplify access of Maine citizens, broadband stakeholders, and the federal government to State of Maine broadband authority, eliminating public confusion about the roles/responsibilities of the two Maine broadband entities.
9. The purpose of this Contract is to enable the CME Board of Directors to use the MCA staff to provide the services currently provided by CME staff to the CME Board of Directors, using CME financial resources to support those MCA services. This will enable DECD to use the two full-time equivalent (FTE) headcount currently dedicated to CME to other DECD priorities. An MCA unit (known as the "MCA Planning and State Services Unit") will be charged with supporting community planning and responding to DECD/other State agency broadband-related inquiries. This Contract authorizes the MCA President and CFO to administer CME financial accounts and to approve disbursements from CME accounts to meet CME obligations consistent with CME Board of Directors guidance.

10. The CME Board of Directors will continue to operate as a separate board of directors and to meet as needed, jointly with MCA Board of Directors as appropriate. CME Board of Directors membership may be further aligned with MCA Board of Directors through Governor appointments.
11. CME's current status as a State subunit continues for financial reporting and audit purposes, to be functionally administered by MCA staff.
12. This CME\_MCA functional integration will enable careful assessment of any further legislative amendments at some future time, but no changes to the CME or MCA statutory framework will be recommended in MCA or CME 2022 annual legislative reports.
13. The purpose of this Agreement is to allocate the roles, responsibilities, and budget for MCA to become the lead agency, consolidating staff of CME and MCA in a single unit. Consistent with the spirit of the legislative instruction in the MCA Statute, MCA and CME have developed this Contract to "facilitate the oversight of CME by MCA."

### **III. DELIVERABLES**

#### **14. Integration of CME Services**

- 14.1. MCA shall perform the services outlined below on behalf of CME, using MCA staff and contractors.
- 14.2. MCA shall be guided by the goals and policies guiding CME as set forth in the CME Statute, sec 9202-A.
- 14.3. MCA shall report on all contract services to the CME Board of Directors, as provided in Section IV Reports below.
- 14.4. MCA shall provide financial, governance, compliance, and other relevant administration services to CME Board of Directors in addition to the tasks below, administering CME financial accounts, making disbursements of CME funds to meet CME obligations, developing financial statements for CME and procuring third party audits for CME accounts for submission to the State of Maine Controller.
- 14.5. CME accounts shall be maintained as separate financial accounts from MCA accounts to comply with State law reporting requirements to the State Controller. CME account disbursements to MCA for MCA services under this contract consistent with the Budget attached as Appendix 1 shall be reviewed and authorized by the CME Board of Directors Chairman prior to disbursement.

14.6. CME and MCA shall cooperate to establish MCA financial administrative access and disbursement authority for all CME accounts effective as of July 1, 2022 to enable support of Community Broadband Funding Grant program administration now ongoing, and to assure for smooth transition of account management to MCA prior to the August 1, 2022 retirement of CME's current Executive Director.

## 15. Community Broadband Planning Functions

### 15.1. Central Broadband Planning

MCA shall provide central broadband planning services to CME to enable CME to discharge its obligations under 35-A MRS §§ 9203(7) and 9204-A, reporting to, and receiving guidance from the CME Board of Directors on planning goals and policies.

### 15.2. Support Local/Regional Broadband Planning

MCA shall recommend and carry out programs to sustain the Maine community of broadband advocates supporting local broadband investment and engagement, taking guidance from the CME Board, consistent with 35-A MRS §9204-A(3).

### 15.3. Community Broadband Planning Grants

15.3.1. CME will make Q4 FY22 disbursements of Community Broadband Planning Grants prior to June 30, 2022.

15.3.2. Starting in fiscal year 2023, MCA will execute contracts directly with any Community Broadband Planning Grants recipients still implementing projects into fiscal year 2023. MCA shall use Community Broadband Funding Grants transitioned by CME to MCA to fund those grants. The grant agreements shall comply with the requirements for Community Broadband Funding Grants set forth in 35-A MRS §9217.

15.3.3. CME shall disburse to MCA all funds remaining in the CME Community Broadband Planning Grants fund to be expended by MCA for Community Broadband Planning Grants and/or Startup Grants.

### 15.4. Community Broadband Planning Support Program

MCA will redesign the Community Broadband Planning Support Program in fiscal year 2023 to launch programming after federal planning funds become available to support this task for CME Board review, and begin any needed procurement processes for third party contractors to assist with the implementation services. MCA will develop further implementation plans to develop additional **Broadband Utility Districts support services** and expanded programs in fiscal year 2023, to be implemented after federal funds are available.

### 15.5. Community Boosters and Broadband Planning

CME will seek to amend the contract with Greater Portland Council of Governments for **Community Boosters and Broadband Planning Support**, in such a way that either the



contract ends before August 1, 2022, or contract administration is transferred by CME to MCA, with MCA to pay the remaining balance from funds transferred by CME.

#### 15.6. **Broadband Utility Districts Support Services**

MCA shall implement Broadband Utility District support services in the first half of fiscal year 2023.

#### 15.7. **CME Broadband Planning Contracts/MCA designation**

MCA shall serve as contract administrator on any CME third-party contract concerning **central broadband planning or local/regional broadband planning matters** described in this section. CME shall provide the required notice to the third party contractor concerning the designation of MCA as CME's representative.

#### 16. **Promote the Use of Broadband Service (35-A MRS §9204-A(2))**

16.1. MCA shall provide the following services to develop and improve existing CME data and tools, in close coordination with MCA's development and improvement of data and tools to implement MCA obligations. The data and tools listed below shall be developed for the shared use of CME and MCA:

16.1.1. MCA shall assume responsibility from CME to administer the CME grant from the Northern Border Regional Commission, and shall implement the remaining grant allocation toward the development of a new **public viewer of the Broadband Intelligence Platform**; (funds will not be transferred to MCA, and will be disbursed from CME bank accounts);

16.1.2. MCA will negotiate with VETRO to create a new public viewer of broadband service availability in the state, to replace the current Broadband Availability Map expiring at the end of June 2022;

16.1.3. CME will contract MCA to oversee and to integrate data collected into the new public viewer of broadband service availability, which also will assist potential grant applicants in community broadband planning;

16.1.4. To the extent it deems necessary, MCA may utilize administrative funding for the CME funds for **Community Broadband Planning Grants** to purchase additional datasets toward the Broadband Intelligence Platform; and

16.1.5. MCA shall serve as contract administrator on any CME third-party contract concerning **central broadband planning or local/regional broadband planning matters** described in this section. CME shall provide the required notice to the third party contractor concerning the designation of MCA as CME's representative.

#### 17. **Support Broadband Investment**

- 17.1. MCA shall provide the following services to the CME Board to provide continuous support for expanding broadband availability through a consistent and transparent process and public offerings, consistent with the CME responsibilities to support broadband investment under 35-A MRS §§9204-A(4) and to facilitate State support of deployment of broadband infrastructure under §9204-A (5):
  - 17.1.1. After the contract between CME and MCA is signed, MCA will execute contracts with recipients of April 2022 Broadband Infrastructure Grants other than the contract CME will execute for awarded bond funds;
  - 17.1.2. MCA will refine and adapt the Broadband Infrastructure Grants Program for successor plans for implementation with funds administered by MCA in the first half of state fiscal year 2023;
  - 17.1.3. MCA will use the CME designations of broadband service, unserved areas and underserved areas, unless incompatible with federal funds;
  - 17.1.4. MCA will develop a plan for CME Board of Directors approval to implement the transition of the CME Grants Verification and Validation process, which covers the project audits of May 2021 Broadband Infrastructure Grants, to MCA by August 1, 2022;
  - 17.1.5. CME shall designate MCA as the administrator (or equivalent) for all CME federal fund revenues;
  - 17.1.6. MCA will develop a plan for CME Board of Directors approval by August 1, 2022, to ensure MCA oversight and report on the 2021 NTIA Grant program, and with board approval MCA shall notify NTIA that a MCA representative serves as grant contact for CME.
  - 17.1.7. MCA will develop a plan for CME Board of Directors approval by August 1, 2022, to ensure awards and reports of New England Clean Energy Connect (NECAC) Broadband Fund occur.
  - 17.1.8. CME projected disbursements related to broadband planning programs shall be administered by MCA on behalf of CME, consistent with Section 24 “Contract Budget” and Appendix 1 Budget.

## 18. **Data Collection**

- 18.1. MCA shall provide support services to the CME Board in the execution of CME's data collection activities under 35-A MRS §9204-A(6), including the collection, aggregation, coordination, and dissemination of information regarding the availability of and need for advanced communications technology infrastructure in the State and opportunities for funding for broadband infrastructure and education.
- 18.2. MCA shall provide support services to the CME Board in the execution of CME's data collection activities under 35-A MRS §9207, including:
  - 18.2.1. Annual data collection from communications service providers and any wireless providers that own or operate advanced communications technology infrastructure in the State data concerning infrastructure deployment for the purpose of developing mapping information to assist the authority in implementing the provisions of section 9202-A;
  - 18.2.2. Collection of pricing data for advertised retail pricing for broadband services offered in the State; and
  - 18.2.3. Collection of revenue data for the purpose of assessing communications service providers subject to 35-A MRS §9211.
- 18.3. In providing support services to the CME board in data collection, MCA shall comply with the confidentiality provisions of 35-A MRS §9207 and any specific confidentiality agreements made by CME with third parties.
- 18.4. MCA shall serve as contract administrator on any CME third-party contract concerning data collection as described in this section. CME shall provide the required notice to the third party contractor concerning the designation of MCA as CME's representative.

## 19. **Conflicts**

Consistent with the requirements of 35-A MRS §9209, MCA shall assure that MCA officers, directors, staff, and contractors do not participate in any decision concerning MCA administration of any contract entered into by CME if that individual has any interest, direct or indirect, in any firm, partnership, corporation or association that is party to the contract. The MCA officer, director, staff or contractor interest must be disclosed to the CME Board in writing with a description of how the conflict will be addressed to assure that the individual is recused from contract services related to the CME contract.

## **20. Broadband Service Strategic Plan**

20.1. Consistent with the requirements of 35-A MRS §9218, MCA shall provide support services to the CME Board in preparation of the Broadband Service Strategic Plan to be submitted to the Legislature under 35-A MRS §9218, including the following services:

20.1.1. MCA shall, after consultation with the CME Board, draft a detailed, triennial strategic plan (minimum length 3 years, maximum length 5 years) for broadband service that includes quantifiable measures of performance to carry out the CME duties under 35-A MRS §9204-A and to further the goals and policies in section 9202-A.

20.1.2. MCA draft strategic plan shall conform to the requirements of 35-A MRS §9218, including but not limited to, budget allocations, objectives, targets, measures of performance, implementation strategies, timelines, a definition of "broadband" and other relevant information.

20.2. MCA shall assure that the draft Broadband Service Strategic Plan is made available for public comment at least 90 days before the date on which the plan will be voted on and provide opportunity for written comments and a public hearing to be filed at least 30 days prior to voting by the CME Board.

20.3. MCA shall serve as contract administrator on any CME third-party contract concerning preparation of the Broadband Service Strategic Plan described in this section. CME shall provide the required notice to the third party contractor concerning the designation of MCA as CME's representative.

## **21. Coordination of CME Initiatives with MCA Initiatives**

21.1. The Parties agree that they shall coordinate their efforts to offer unified and well-coordinated broadband planning and implementation efforts on behalf of the citizens of Maine. Where possible, the Parties shall present their position on broadband issues in a unified and coordinated manner.

21.2. The Parties shall coordinate their efforts to avoid disrupting the marketplace due to inconsistent positions or actions concerning the broadband community.

21.3. CME shall only initiate, pursue, or promote any activity in close coordination with MCA to support this important integration.

21.4. The Parties will develop all legislative recommendations on revisions to broadband laws or the organizational structure of each Party on a joint basis to provide the best expert guidance on broadband development for the Legislature and the citizens of Maine.

## 22. **Preparation of CME Audits and Future Budgets**

22.1. MCA shall provide support services to the CME Board of Directors in preparation of CME financial audits.

22.2. MCA will contract with qualified auditors to complete CME financial audits.

22.3. MCA shall submit all required CME financial data to the State Controller or State Auditor as required by State law.

22.4. MCA shall draft CME annual budgets for consideration by the CME Board of Directors, prioritizing use of funds to support the Parties' shared goals and minimize unnecessary or duplicative expenditures. The FY23 budget will be presented to CME Board for approval at the first scheduled CME board meeting following the execution of this contract. Future budgets will be presented to the CME for approval prior to June 30 of each year.

## 23. **Contract Effective Date and Renewals**

23.1. The Contract Term is five years, with an Effective Date of July 15, 2022 and a Termination Date of June 30, 2027.

23.2. The Contract Term shall renew automatically for additional five-year periods unless either Party provides a written notice 60 days prior to the expiration of the Contract Term. For the avoidance of doubt, on the June 30, 2027 Termination Date of this Contract, this Contract will automatically renew for a five-year term from July 1, 2027 to June 30, 2032, unless the Parties have expressly agreed to another term.

## 24. **Contract Budget**

24.1. The projected CME compensation to MCA under this Contract is described in the "Appendix 1 - Budget" to this Schedule – including a detailed breakdown of FY23, plus information on proposed spending for future years. For the avoidance of doubt, the intention of the Parties is to enable utilization of all CME funds by MCA, under the oversight of the CME Board of Directors, whether by direct MCA disbursement of CME funds, or by transfer of CME Funds to MCA, as described below.

### 24.2. **CME State of Maine General Fund Revenues**

All CME General Revenue funds shall be paid over to MCA on or before September 30, 2022 to support the work described in this Contract, after payment of all remaining scheduled CME disbursements. If CME receives any General Fund revenues in future fiscal years, those funds shall be transferred to MCA for the support of the work described in this Contract.



### 24.3. **Special/Designated Non-lapsing Funds**

#### 24.3.1. **ConnectMaine Fund**

All funds in the non-lapsing ConnectMaine Fund (aka the ConnectME Fund) established in 35-A MRS §9211 to support the activities and projects of CME shall be paid over to MCA to support the services to be provided to CME by MCA or its contractors under this Contract. MCA shall assure that the annual Contract Budget uses of the ConnectMaine Fund comply with the requirements of §9211.

24.3.1.1. The remaining ConnectMaine Fund balance as of June 30, 2022 shall be paid over to MCA on or before September 30, 2022, after payment of all remaining scheduled CME disbursements from that account.

24.3.1.2. All new funds in the non-lapsing Connect Maine Fund accruing during FY2023 through FY 2027 shall be paid over to MCA on a quarterly basis on or before March 31, June 30, September 30, and December 31.

#### 24.3.2. **Municipal Gigabit Broadband Network Access Fund**

All funds in the non-lapsing, revolving Municipal Gigabit Broadband Network Access Fund established in 35-A MRS §9211-A to support the activities and projects of CME shall be paid over to MCA to support the services to be provided to CME by MCA or its contractors under this Contract. MCA shall assure that the annual Contract Budget uses of the Municipal Gigabit Broadband Network Access Fund comply with the requirements of §9211-A.

24.3.2.1. The remaining Fund balance as of June 30, 2022 shall be paid over to MCA on or before September 30, 2022, after payment of all remaining scheduled CME disbursements from that account.

24.3.2.2. All new funds accruing in the Fund during FY 2023 through FY 2027 shall be paid over to MCA on a quarterly basis during the entire Term of the Contract, payable on or before March 31, June 30, September 30 and December 31, or the prior business day.

#### 24.3.3. **Federal Funds**

Federal funds already awarded to CME shall remain in CME accounts, and future funds received under existing awards will remain in CME accounts. The CME Board of Directors shall authorize MCA to administer those funds on behalf of CME Board of Directors, and shall appoint the MCA President as the Contract Representative for CME on the federal grants, including but not limited to, the NTIA and NBRC – Broadband Intelligence Platform Grants.

#### **24.3.4. State Bond Funds**

State Bond Funds received by CME shall remain in CME accounts and future funds received will remain in CME accounts. The CME Board of Directors shall authorize MCA to administer those funds on behalf of CME Board of Directors, and shall appoint the MCA President as the Contract Representative for CME on the State Bond Fund.

### **IV. REPORTS**

#### **25. Reports to CME Board of Directors**

The MCA staff shall report to the CME Board of Directors on MCA performance under this Contract on at least a quarterly basis, or as requested by the CME Board of Directors.

#### **26. Legislative Reports**

MCA shall support the CME Board of Directors in preparation of the annual legislative report to be submitted to the Legislature under 35-A MRS § 9208.

#### **27. Contract Administrator on Legislative Report-Related Contracts**

MCA shall serve as contract administrator on any CME third-party contract related to the preparation of the legislative report as described in this section. CME shall provide the required notice to the third party contractor concerning the designation of MCA as CME's representative.

### **V. GENERAL**

#### **28. Counterparts and Electronic Signatures**

This Agreement may be implemented in one or more counterparts, each of which will be deemed to be an original copy and all of which, when taken together, will be deemed to constitute one and the same Agreement, and will be effective when counterparts have been signed by and delivered to each of the Parties. Each Party agrees that this Agreement and any other documents to be executed in connection herewith may be electronically signed and that any electronic signatures appearing on this Agreement or the associated documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

**APPENDIX 1  
 CONTRACT BUDGET**

	FY23	FY24	FY25	TOTAL - FY23-FY25
	Budget	Projected	Projected	
<b>FY23 Budget Summary</b>				
CME transfer of funds - operations* (quarterly, ongoing)	\$2,250,000	\$2,500,000	\$2,500,000	<b>\$7,250,000</b>
CME transfer of funds - operations* (one-time by 9/30/22)	\$264,115	\$0	\$0	<b>\$264,115</b>
CME transfer of funds - planning grants (one-time by 9/30/22)	\$83,500	\$0	\$0	<b>\$83,500</b>
<b>TOTAL CME transfer of funds to MCA</b>	<b>\$2,597,615</b>	<b>\$2,500,000</b>	<b>\$2,500,000</b>	<b>\$7,597,615</b>
Staffing	\$2,068,037	\$2,836,925	\$3,391,457	<b>\$8,296,419</b>
Operational Expenses (inc. CME)	\$277,850	\$293,290	\$304,143	<b>\$875,283</b>
Financing Expenses	\$376,000	\$301,030	\$226,061	<b>\$903,091</b>
Consulting - Professional Services	\$358,400	\$339,712	\$349,903	<b>\$1,048,015</b>
Consulting - Technical Advisory	\$2,770,000	\$2,329,600	\$1,939,488	<b>\$7,039,088</b>
<b>TOTAL MCA Operational Expenses</b>	<b>\$5,850,287</b>	<b>\$6,100,557</b>	<b>\$6,211,052</b>	<b>\$18,161,895</b>
Match funds for Federal Grant	\$1,000,000	\$0	\$0	<b>\$1,000,000</b>
Reserves / Future connectivity program work	\$47,606	\$1,082,888	\$1,488,948	<b>\$2,619,442</b>
<b>TOTAL MCA Other Expenses</b>	<b>\$1,047,606</b>	<b>\$1,082,888</b>	<b>\$1,488,948</b>	<b>\$3,619,442</b>

## **RIDER B**

### **TERMS AND CONDITIONS**

1. INVOICES AND PAYMENT: Department will pay the Provider as follows: Payment terms are net 30 days from the date the State receives an error-free invoice with all necessary and complete supporting documents. Provider shall submit detailed invoices, itemizing all work performed during the invoice period, including the dates of service, rates of pay, hours of work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State. All invoices must include the Department and Advantage Contract numbers for this contract.
2. BENEFITS AND DEDUCTIONS. If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.
3. INDEPENDENT CAPACITY. In the performance of this Contract, the parties hereto agree that the Provider, and any agents and employees of the Provider, shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.
4. DEPARTMENT'S REPRESENTATIVE. The Contract Administrator shall be the Department's representative during the period of this Contract. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Contract are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.
5. CHANGES IN THE WORK. The Department may order changes in the work, the Contract Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to execution of the work.
6. SUB-AGREEMENTS. Unless provided for in this Contract, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Contract Administrator. Any sub-agreement hereunder Entered into

subsequent to the execution of this Contract must be annotated "approved" by the Contract Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.

7. SUBLETTING, ASSIGNMENT OR TRANSFER. The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Contract Administrator. No subcontracts or transfer of Contract shall in any case release the Provider of its liability under this Contract.
8. EQUAL EMPLOYMENT OPPORTUNITY. During the performance of this Contract, the Provider agrees as follows:
  - a. The Provider shall not discriminate against any employee or applicant for employment relating to this Contract because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

- b. The Provider shall, in all solicitations or advertising for employees placed by or on behalf of the Provider relating to this Contract, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.
  - c. The Provider shall send to each labor union or representative of the workers with which it has a collective bargaining Contract, or other Contract or understanding, whereby it is furnished with labor for the performance of this Contract a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - d. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine

Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.

- e. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.
  - f. Providers and subcontractors with Contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs, which programs must conform with applicable state and federal laws, rules and regulations.
  - g. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
9. EMPLOYMENT AND PERSONNEL. The Provider shall not engage on a full-time, part-time or other basis during the period of this Contract, any (a) state employee or (b) any former state employee who participated in any way in the solicitation, award or administration of this Agreement. This restriction shall not apply to regularly retired employees or any employee who has been out of state employment for a period of twelve (12) months.
10. WARRANTY. The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Contract and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Contract. For breach or violation of this warranty, the Department shall have the right to annul this Contract without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
11. ACCESS TO RECORDS. As a condition of accepting an Contract for services under this section, a Provider must agree to treat all records, other than proprietary information, relating to personal services work performed under the Contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the Department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the Provider and would make available information not otherwise publicly available. Information

relating to wages and benefits of the employees performing the personal services work under the Contract and information concerning employee and Contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Contract and make such materials available at its offices at all reasonable times during the period of this Contract and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

12. TERMINATION. (a) The performance of work under the Contract may be terminated by the Department whenever for any reason the Contract Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the date on which such termination becomes effective. Upon such termination, the Department shall pay the Provider for work performed by the Provider prior to the date of Notice of Termination. (b) Either party may terminate this Agreement for cause by providing a written notice of termination stating the reason for the termination. Upon receipt of the notice of termination, the defaulting party shall have fifteen (15) business days to cure the default. If the default is of such a nature that it cannot be cured within fifteen (15) business days, the defaulting party shall have such additional time, as the parties may agree to, to cure the default, provided the defaulting party has taken steps to cure the default with the initial 15 days.
13. GOVERNMENTAL REQUIREMENTS. The Provider warrants and represents that it will comply with all governmental ordinances, laws and regulations.
14. GOVERNING LAW. This Contract shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Contract shall be brought in State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.
15. STATE HELD HARMLESS. The Provider shall indemnify and hold harmless the Department and its officers, agents, and employees from and against any and all third party claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Provider, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Provider shall not be liable for claims arising out of the negligent acts or omissions of the Department, or for actions taken in reasonable reliance on written instructions of the Department.

16. NOTICE OF CLAIMS. The Provider shall give the Contract Administrator immediate notice in writing of any legal action or suit filed that is related in any way to the Contract or which may affect the performance of duties under the Contract, and prompt notice of any claim made against the Provider by any subcontractor which may result in litigation related in any way to the Contract or which may affect the performance of duties under the Contract.
  
17. APPROVAL. This Contract must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document.
  
18. INSURANCE. The Provider shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Contract with adequate liability coverage to protect itself and the Department from suits. Providers insured through a “risk retention group” insurer prior to July 1, 1991, may continue under that arrangement. Prior to or upon execution of this Contract, the Provider shall furnish the Department with written or photocopied verification of the existence of such liability insurance policy.
  
19. NON-APPROPRIATION. Notwithstanding any other provision of this Contract, if the State does not receive sufficient funds to fund this Contract and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Contract.
  
20. SEVERABILITY. The invalidity or unenforceability of any particular provision, or part thereof, of this Contract shall not affect the remainder of said provision or any other provisions, and this Contract shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
  
21. ORDER OF PRECEDENCE. In the event of a conflict between the documents comprising this Agreement, the Order of Precedence shall be:

Rider C Exceptions

Rider B Terms and Conditions



Rider A Scope of Work

Funding Rider

Rider D Included at Department's Discretion

Rider E Included at Department's Discretion

Rider F Included at Department's Discretion

Rider G Identification of Country in which contracted work will be performed

Business Associate Agreement included at Department's Discretion

Other Included at Department's Discretion

22. FORCE MAJEURE. The performance of an obligation by either party shall be excused in the event that performance of that obligation is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party.
23. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Contract up to any amounts due and owing to the State with regard to this Contract, any other Contract, any other Contract with any State department or agency, including any Contract for a term commencing prior to the term of this Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.
24. ENTIRE CONTRACT. This document contains the entire Contract of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Contract that any implied waiver occurred between the parties, which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Contract, or to exercise an option or election under the Contract, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one

or more of its rights or remedies under the Contract shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Contract or at law.

25. **AMENDMENT:** No changes, modifications, or amendments in the terms and conditions of this Contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Provider.
26. **DEBARMENT, PERFORMANCE, AND NON-COLLUSION CERTIFICATION:** By signing this Contract, the Provider certifies to the best of Provider's knowledge and belief that the aforementioned organization, its principals and any subcontractors named in this Contract:
- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.
  - b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:
    - i. Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.
    - ii. Violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
    - iv. Have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.
  - c. Have not Entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.

## RIDER C

### EXCEPTIONS

Exception to #1: Invoices and Payment in Rider B Terms and Conditions: In order for the State to receive an error-free invoice with all necessary and complete supporting documents, the Reports required in Rider A Scope of Work shall be received, reviewed, and accepted by the Department as a precondition for payment installments under this Contract.

Exception to #11: Access to Records in Rider B Terms and Conditions: Because the Maine Connectivity Authority is a body corporate and politic and a public instrumentality of the State, the Provider shall abide by the provisions of the Freedom of Information Act, the Connectivity Infrastructure Act, 35-A MRS Chapter 94-A, and the Advanced Technology Infrastructure Act, 35-1 MRS Chapter 93 regarding confidentiality of records.

Exception to #17: Approval in Rider B Terms and Conditions: Because the ConnectMaine Authority is a body corporate and politic and a public instrumentality of the state, no such approval is required. This Contract becomes valid and enforceable when it is signed and executed by the parties.

Exception to Rider G: Identification of Country: Because the ConnectMaine Authority is a body corporate and politic and a public instrumentality of the state, the Provider shall notify the Department of any changes, and the Department may then notify Division of Procurement Services as appropriate.