AGENDA COVER MEMO

Memorandum Date: April 10, 2024

Order Date: April 23, 2024

TO: Board of County Commissioners

DEPARTMENT:

PRESENTED BY:

AGENDA ITEM TITLE: ORDER/IN THE MATTER OF APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH LANE COUNCIL OF GOVERNMENTS (LCOG) TO APPLY FOR A BROADBAND DEPLOYMENT GRANT TO BE ADMINISTERED AND COORDINATED BY LCOG AND DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR OR DESIGNEE TO EXECUTE THE IGA.

I. MOTION

Move approval of ORDER/in the matter of approving an intergovernmental agreement (IGA) with Lane Council of Governments (LCOG) to apply for a broadband deployment grant to be administered and coordinated by LCOG and delegating authority to the County Administrator or designee to execute the IGA.

II. AGENDA ITEM SUMMARY

The Board is being asked to approve an IGA with LCOG to apply for a Broadband Deployment Program (BDP) award under the Oregon Broadband Office to install broadband under a Cooperative Agreement for Rural Broadband in Lane County with Douglas Fast Net (DFN). LCOG, in partnership with Lane County, issued a solicitation, in accordance with LCOG's procurement policies, for the partnership of qualified internet service providers to jointly address the broadband service needs of unserved and underserved residents, businesses and institutions in Lane County, specifically through the State of Oregon's Broadband Programs. Douglas Fast Net (DFN) responded to the solicitation for partner qualified internet service providers in accordance with LCOG's procurement policies and was selected as the most responsive provider. LCOG has coordinated the co-application for BDP funding for the Fern Ridge West (Elmira), Mabel (Marcola), Spencer Butte (Fox Hollow), Fall Creek (Jasper to Lowell), Creswell, and Pleasant Hill areas. LCOG and DFN have also identified eight additional rural areas withing Douglas County and two additional areas within Lane County that also meet

the funding criteria for BDP which will increase the impact and overall competitiveness of the project proposal.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

In 2021 the Board of County Commissioners requested an update on regional broadband work. In November of 2021 a presentation was provided to the board which included the sharing of the regional broadband vision and goals. Since this time significant legislation and funding initiatives have been made available that provide opportunities to expand broadband access in unserved and underserved areas. Listed below are the goals and vision as presented in November 2021.

Vision – Because Broadband is an essential service, maximize outside funding secured by Lane County agencies and partners to address unmet local needs with a focus on equity for affordable, resilient, high speed internet connectivity across our County in a manner that is in the public interest.

Goals:

- Broadband should be available and affordable for all
- Broadband should be reliable and resilient
- Broadband should be fast (100 Mbps symmetrical or better)
- Deployment and adoption education is provided to ensure public access

In October 2023 the Board was provided with an update and overview of the project associated with this IGA as well as the RFP process that was to be used in the selection of a project partner.

B. Board Goals

This action is consistent with the strategic priorities contained in the Lane County 2022-2024 Strategic Plan, including:

Strategic priority number 3: Expand access to affordable broadband in Lane County. This IGA and BDP application helps achieve this objective if awarded.

C. Health Implications

- Education
- Employment and livelihood
- Online health services
- Other services

The result of this action will direct the coordinated application for BDP funding that if successful will address the digital divide that exists in rural parts of Lane County that will provide access to education, employment, health and other services through broadband internet that would have not been possible otherwise.

D. Analysis

Even though Lane County is a regional center for education, manufacturing, health care and technology, it is still predominantly rural. According to the FCC's latest Broadband Serviceable Locations (BSL) data, 6.6% of the county's addresses are unserved and 5.4% are underserved, constituting approximately 16,500 Lane County addresses with no, or inadequate internet service. As reliance on the internet for basic day-to-day functions and services, including health, education and employment increase, many, if not all, of the residents at these 16,500 addresses are at risk of falling even further behind in our community's "digital divide."

The primary obstacle to service in these remaining areas is the high cost and low return on investment of private sector broadband construction. Oregon's Broadband Deployment Program can only be used for projects bringing service to unserved and underserved residents in the state. A successful LCOG and DFN application to the BDP will result in funded construction of fiber to approximately 1,750 locations in the areas presented in Map 1 over the next 2.5 years.

E. Alternatives/Options

1. Approve IGA with LCOG to support the cooperative agreement with LCOG and Douglas Fast Net (DFN) for rural broadband in Lane County in an application to the Oregon Broadband Office for a funding award under the Broadband Deployment Program (BDP) and delegate authority to the County Administrator to execute the IGA.

2. Do not approve the entering into the IGA at this time.

RECOMMENDATION

Technology Services Department recommends Option 1, above.

IV. TIMING/IMPLEMENTATION

The BDP application is due April 25, 2024. The application review and selection process will be conducted over a number of weeks with an expectation that applicants will be notified by early summer. If the application is awarded, the project must achieve substantial completion by September 30, 2026 and be totally complete by December 31, 2026. Additionally, awarded applicants may be requested by Business Oregon to submit additional project data for reporting purposes for up to six years after project completion.

V. FOLLOW-UP

If the coordinated application is awarded funding a status report will be presented to the Board by the end 2024 with the implementation schedule and if any necessary updates or modifications to the IGA are required.

VI. ATTACHMENTS

Board Order
IGA with Lane Council of Governments
Letter of Support
Map of grant project areas

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 24-04-23-06

In the Matter of APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH LANE COUNCIL OF GOVERNMENTS (LCOG) TO APPLY FOR A BROADBAND DEPLOYMENT GRANT TO BE ADMINISTERED AND COORDINATED BY LCOG AND DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR OR DESIGNEE TO EXECUTE THE IGA.

WHEREAS, the Board of Commissioners adopted a Broadband Vision, Goals and Tactics policy which looks to maximize outside funding secured by Lane County agencies and partners to address unmet local needs for affordable, resilient, high speed internet connectivity across the County; and

WHEREAS, Lane Council of Governments and the County have worked in a collaborative manner to address the digital divide and broadband need in parts of underserved areas of the County; and

WHEREAS, the Oregon Broadband Office has opened applications under the Broadband Deployment Program to fund the construction and deployment of Broadband Infrastructure Projects; and

WHEREAS, Lane Council of Governments in partnership with Lane County, issued a solicitation, in accordance with LCOG's procurement policies, for the partnership of qualified internet service providers to jointly address the broadband service needs of unserved and underserved residents, businesses and institutions in Lane County.

WHEREAS, Douglas Fast Net (DFN) responded to the solicitation for partner qualified internet service providers in accordance with LCOG's procurement policies and was selected as the most responsive provider. LCOG will be a co-applicant with DFN for BDP funding for the Fern Ridge West (Elmira), Mabel (Marcola), Spencer Butte (Fox Hollow), Fall Creek (Jasper to Lowell), Creswell, and Pleasant Hill areas.

WHEREAS, LCOG and DFN have identified eight additional rural areas within Douglas County and two additional within Lane County that meet the funding criteria identified by the Oregon Broadband Deployment Program, and which increase the impact and overall competitiveness of the project proposal.

WHEREAS, Lane Manual Chapter 20 requires Board of County Commissioner approval of contract or IGA's in excess of three years.

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDERS** as follows:

1. Approve an Intergovernmental Agreement with Lane Council of Governments for administering and coordinating for applying for a Broadband Deployment Grant to be administered and coordinated by the Council.

2. Delegate authority to the County Administrator or designee to execute the IGA.

3. Authorize the Board Chair to sign a letter of support for the Broadband Deployment Program funding specified in the application.

ADOPTED this 23rd day of April, 2024.

_____

Laurie Trieger, Chair
Lane County Board of Commissioners

INTERGOVERNMENTAL AGREEMENT

BETWEEN: **Lane County** (County), a unit of local government of the State of Oregon

AND: **Lane Council of Governments** (LCOG), an ORS 190 organization of governments within Lane County, Oregon

EFFECTIVE DATE: April 23, 2024

RECITALS

A. ORS 190.010 provides that units of local government may enter into agreements for the performance of any and all functions and activities that any party to the agreement, its officers, or agents have the authority to perform.

B. County and LCOG desire to enter into an agreement wherein both parties will meet the obligations described in this agreement.

AGREEMENT

1. Duration. The agreement term shall take effect on the Effective Date and shall continue in place until December 31, 2026 or until earlier terminated pursuant to Paragraph 4 of this agreement.

2. Mutual Obligations for Oregon Broadband Deployment Program Partnership. Lane County staff and leadership played an active, and much appreciated, role in LCOG's development and issuing of an RFP to secure an Internet Service Provider partner for the Oregon Broadband Office's Broadband Deployment Program funding opportunity. LCOG, with County input, secured Douglas Fast Net as a partner through that process, to provide internet to unserved and underserved areas in both Lane and Douglas Counties, with the majority of the locations that are intended to be served in Lane County.

Though not a co-applicant, Lane County supports and brings partnership to Lane Council of Governments in their co-application with Douglas Fast Net for Broadband Deployment Program (BDP) funds. The County supports the project's clear objective to bring much needed internet connectivity to numerous rural regions in Lane County and beyond (bringing reliable and affordable high-speed internet to over 1,800 rural residents). The BDP project proposed by LCOG and DFN directly supports this objective. BDP presents a crucial opportunity to capitalize further on strong regional momentum and bring hundreds of households in Lane County across the digital divide.

2.1 County's obligations. *In support of LCOG and DFN's BDP project, if awarded, County will:*

1. ***Provide project expertise and leverage in the area of rights-of-way in Lane County (the ROWs themselves, mapping permit and documentation/applications, general***

ROW knowledge).

2. ***Provide assistance, where possible, in relations with local, regional and state partners, including crucial utility partners.***
3. ***Provide assistance, where possible, with deployment promotion and adoption.***
4. ***Provide policy and legislative expertise and leverage where needed.***
5. ***Consider additional match funds where possible and practical.***

2.2 LCOG's obligations. *If LCOG and DFN's BDP project is awarded,* ***LCOG will*** *(consistent with Section 3.0 of this agreement):*

1. ***Pursue, with DFN, high-speed internet construction in the areas depicted in Map 1 (attached), as obliged as a co-applicant for an eventual award of BDP funds.***
2. ***Map and diagram additional assets constructed with BDP funds.***
3. ***Promote the deployment and adoption of internet where construction occurs.***
4. ***Provide administrative support to DFN and contribute to as successful and transparent a public-private partnership as possible***
5. ***Continue to foster and support local, regional, and state broadband relationships***
6. ***Keep Lane County appraised of project progress, successes and needs, through regular monthly check-ins.***
7. ***Leverage currently designated/established broadband project matching funds where possible and practical.***

3. Termination. Upon thirty days' prior written notice delivered to the persons designated In Section 6 to receive notice, either party, without cause, may terminate its participation in this agreement. If BDP funds are not awarded to support the project, this Agreement will terminate.

4. Amendments. This agreement may be modified or extended by written amendment signed by both parties.

5. Administration. Each party designates the following person as its representative for purposes of administering this agreement. Either party may change its designated representative by giving written notice to the other as provided in Section 14.

For LCOG:
Jacob Callister
859 Willamette St., Suite 500
Eugene, OR 97401
Ph: 541-682-4114
jcallister@lcog.org

For Lane County:
Michael Finch
125 E 8th Avenue
Eugene OR 97401
Ph: 541-682-4232
Michael.finch@lanecountyor.gov

6. **Indemnification**. To the extent allowed by the Oregon Constitution and the Oregon Revised Statutes, each of the parties hereto agrees to indemnify, defend, and save the other harmless from any claims, liability or damages including attorney fees, at trial and on appeal, arising out of any error, omission or act of negligence on the part of the indemnifying party, its officers, agents, or employees in the performance of this agreement.

7. **Dispute Resolution.** The parties are required to exert every effort to cooperatively resolve any disagreements that may arise under this Contract. This may be done at any management level, including at a level higher than the persons directly responsible for administration of this agreement. ln the Event that the parties alone are unable to resolve any conflict under this Agreement, they are encouraged to resolve their differences through mediation or arbitration, using such process as they may choose at the time.

8. **Assignment.** Neither party shall assign this agreement in whole or in part, or any right or obligation hereunder, without the other party's written approval.

9. **Compliance With Laws.** LCOG shall comply with all applicable federal, state, and local laws, rules, ordinances, and regulations at all times and in the performance of any work, including all applicable State and local public contracting provisions.

10. **Notices.** Any notices permitted or required by this agreement shall be deemed given when personally delivered or upon deposit in the United States mall, postage fully prepaid, certified, return receipt requested, addressed to the representative designated in Section 6. Either party may change its address by notice given to the other in accordance with this paragraph.

11. **Integration.** This agreement embodies the entire agreement of the parties, there are no promises, terms, conditions, or obligations other than those contained herein. This agreement shall supersede any prior communications, representations, or agreements, either oral or written between the parties.

12. **Interpretation.** This agreement shall be governed by and interpreted in accordance with the laws.

LANE COUNCIL OF GOVERNMENTS	LANE COUNTY
By: _____	By:_____
Date: _____	Date: _____

LANE COUNTY

PUBLIC SERVICE BUILDING, 125 EAST 8TH AVENUE, EUGENE, OR 97401/(541) 682-4203/FAX (541) 682-4616

April 23, 2024

Dear Oregon Broadband Office,

Lane County submits this letter of support and partnership for Douglas Fast Net (DFN) and Lane Council of Government's (LCOG) application for Broadband Deployment Program (BDP) funds to bring much needed internet connectivity to rural Lane and Douglas Counties at a regional scale. Lane and Douglas Counties, like many Oregon counties, have thousands of unserved or underserved Broadband Serviceable Locations (BSLs) as defined by the FCC's BSL Map. The proposed project's plan to address over 2,000 locations would make a significant impact for so many residents and rural areas.

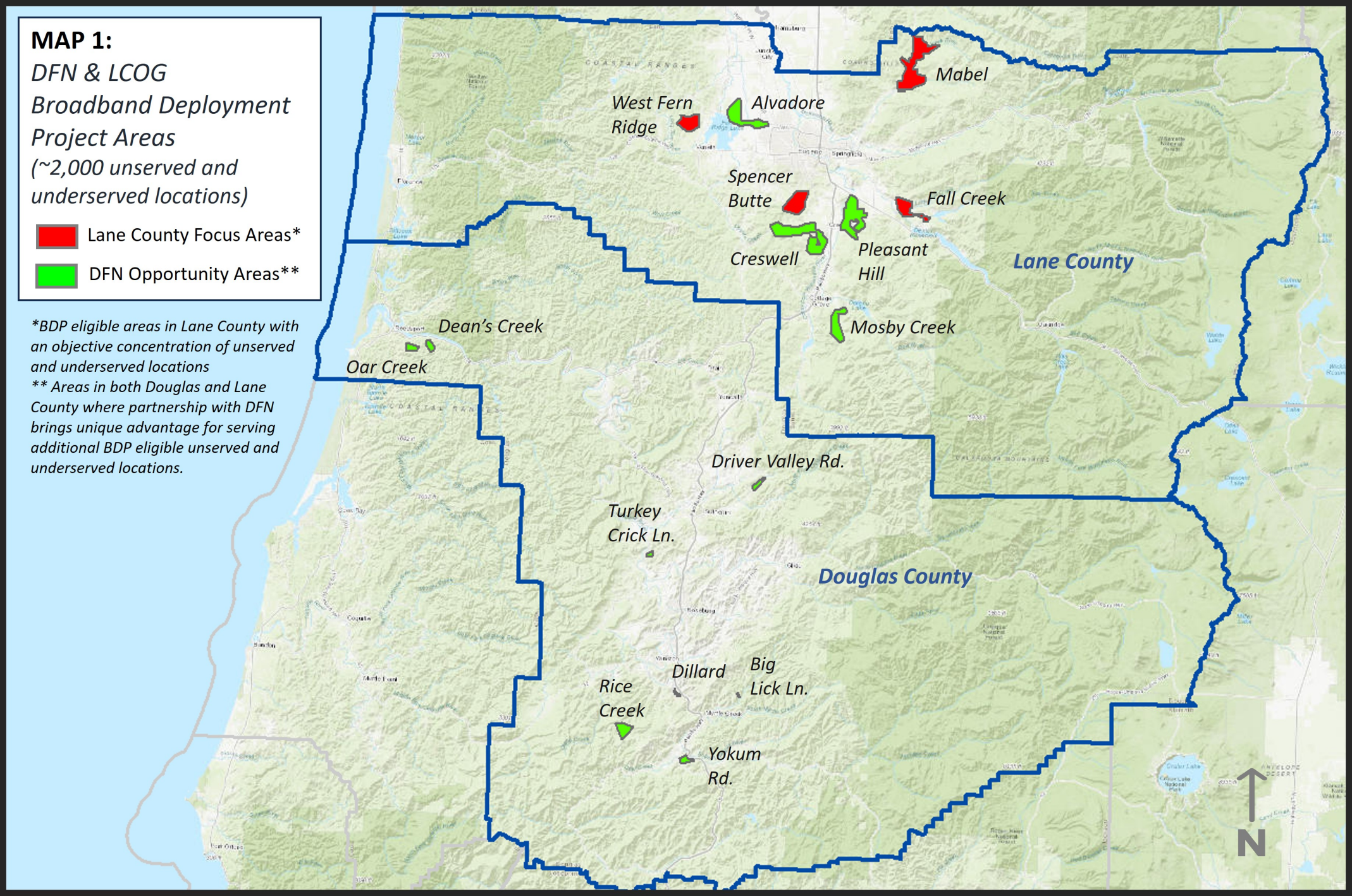
Lane County's current Strategic Plan (2022 – 2024) identifies six objectives to achieve its strategic goal to *"Maintain and invest in resilient infrastructure that creates the highest return for safety, community connectivity, enjoyment of life, and local economic success".* First among the objectives is to *"Establish needed support structures in order to expand access to affordable broadband in Lane County."* The work proposed by DFN and LCOG supports this strategy and objectives.

Lane County has been a direct partner with LCOG in pursuit of improved FCC fabric mapping, increased multi-county coordination, the identification of priority broadband service project areas in Lane County, and a first-of-its kind RFP for a public-private partnership in broadband deployment. The State Broadband Office's funds through BDP presents a crucial opportunity to capitalize further on strong regional momentum and bring so many in Lane County, and some of our neighbors to the south in Douglas County, across the digital divide.

DFN has proven to be a good partner to public entities in Lane County and have operated with a crucial balance of sustainability and integrity. LCOG's role in regional broadband has been consistent over several decades. LCOG combines experience in asset and relationship management with a deeply entrenched commitment to its partners in regional broadband coordinating efforts.

We recognize the impact that the proposed broadband deployment project will have in addressing Lane County's broadband goals and improve people's lives. We are prepared to commit County policy, technology, and staffing resources to support the project's implementation and success. Lane County's commitment to this effort is formalized in an Intergovernmental Agreement (IGA) we recently executed with LCOG. We hope the Oregon Broadband Office will recognize this commitment and support as it carefully evaluates BDP applications in our region and across the state.

Laurie Trieger, Chair
Lane County Board of Commissioners


MAP 1:
DFN & LCOG
Broadband Deployment
Project Areas
(~2,000 unserved and
underserved locations)
Lane County Focus Areas*
DFN Opportunity Areas**
*BDP eligible areas in Lane County with an objective concentration of unserved and underserved locations
** Areas in both Douglas and Lane County where partnership with DFN brings unique advantage for serving additional BDP eligible unserved and underserved locations.
Mabel
West Fern Ridge
Alvadore
Spencer Butte
Fall Creek
Creswell
Pleasant Hill
Lane County
Dean's Creek
Oar Creek
Mosby Creek
Driver Valley Rd.
Turkey Crick Ln.
Douglas County
Dillard
Big Lick Ln.
Rice Creek
Yokum Rd.
N

Lane County Board of Commissioners

Lane Council of Governments Broadband Deployment Program Application Update

April 23, 2024

What we are asking for:

- Approval of an Intergovernmental Agreement with LCOG ; and
- Approval of an associated Board Letter

…to commit County support for LCOG's joint application (with Douglas Fast Net) to the Oregon Broadband Office for a funding award under the Broadband Deployment Program (BDP).

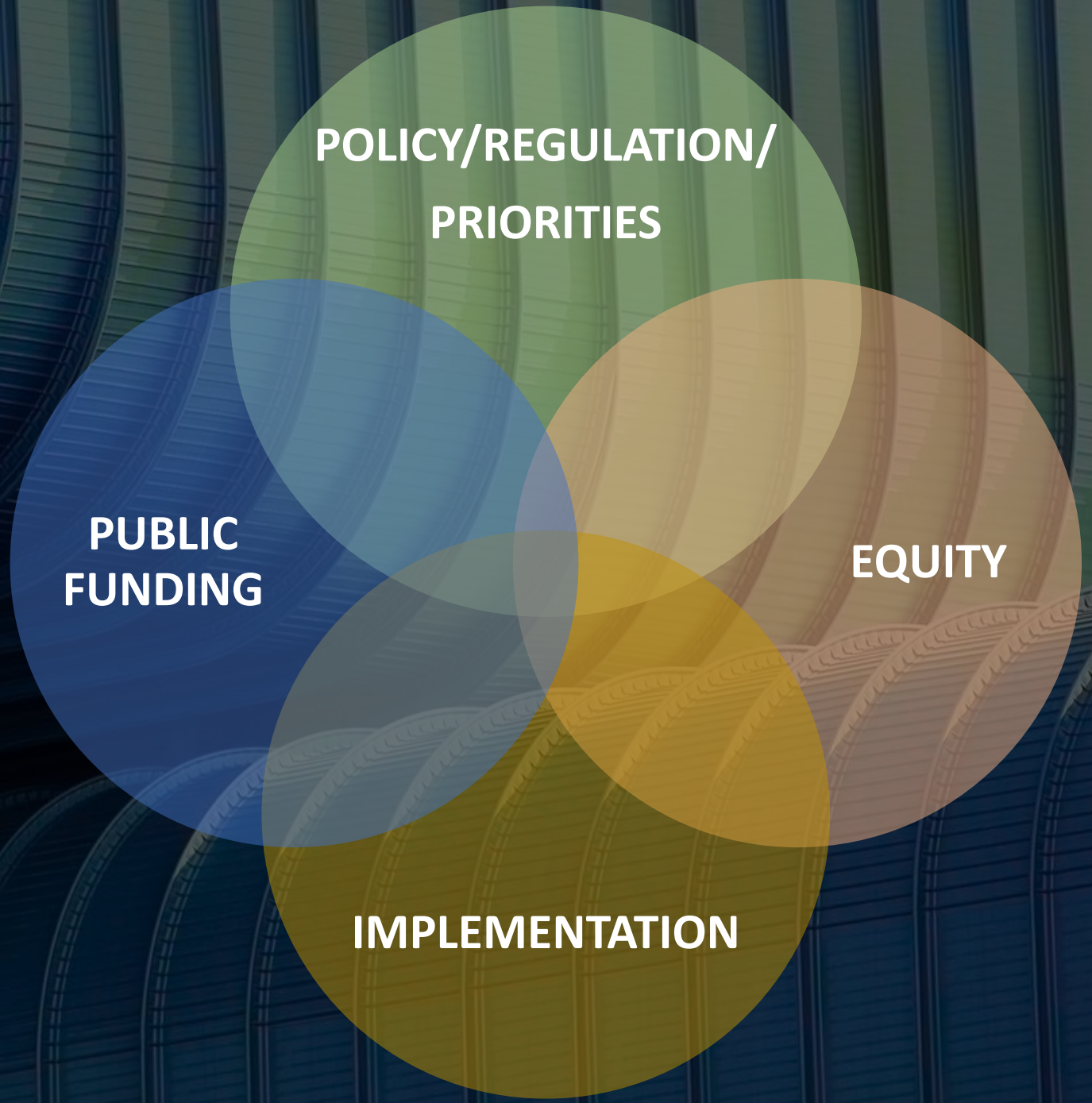
Regional Updates

- LCOG Board of Directors (September ‘23)
- Lane Economic Committee (February ‘24)
- Regional Fiber Consortium (March ‘24)
- Metropolitan Policy Committee (March ‘24)
- Cascades West Economic Development District (May ‘24)

1. There is a Digital Divide

The gap between people who have access to affordable and reliable internet service (and the skills and gadgets to take advantage of these) and those who don't.

2. Government Assistance Critical



Lane County
Broadband Vision, Goals and Tactics
(as presented in Fall, 2021)

Vision – Maximize outside funding secured by Lane County agencies and partners to address unmet local needs for affordable, resilient, high speed internet connectivity across our County.

Lane County
Broadband Vision, Goals and Tactics
(as presented in Fall, 2021)

Goals:

Broadband should be available and affordable

Broadband should be reliable and resilient.

Broadband should be fast.

Lane County
Broadband Vision, Goals and Tactics
(as presented in Fall, 2021)

Tactics:

Invest in open access fiber infrastructure

Strategically partner with private sector

Modernize existing infrastructure

Construct new runs to underserved communities

Lane County
Broadband Vision, Goals and Tactics
(as presented in Fall, 2021)

Tactics (continued):

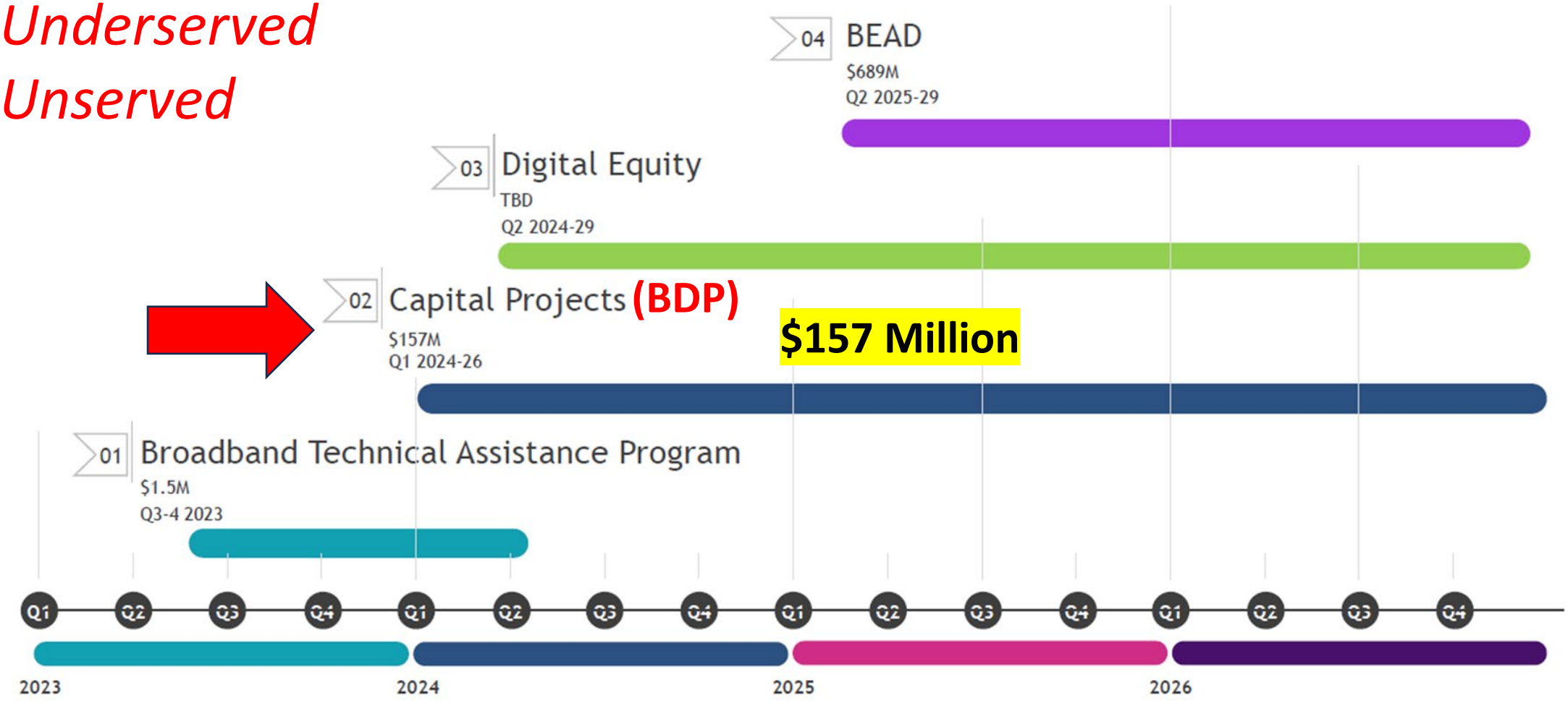
Grow (and strengthen) interconnection facilities

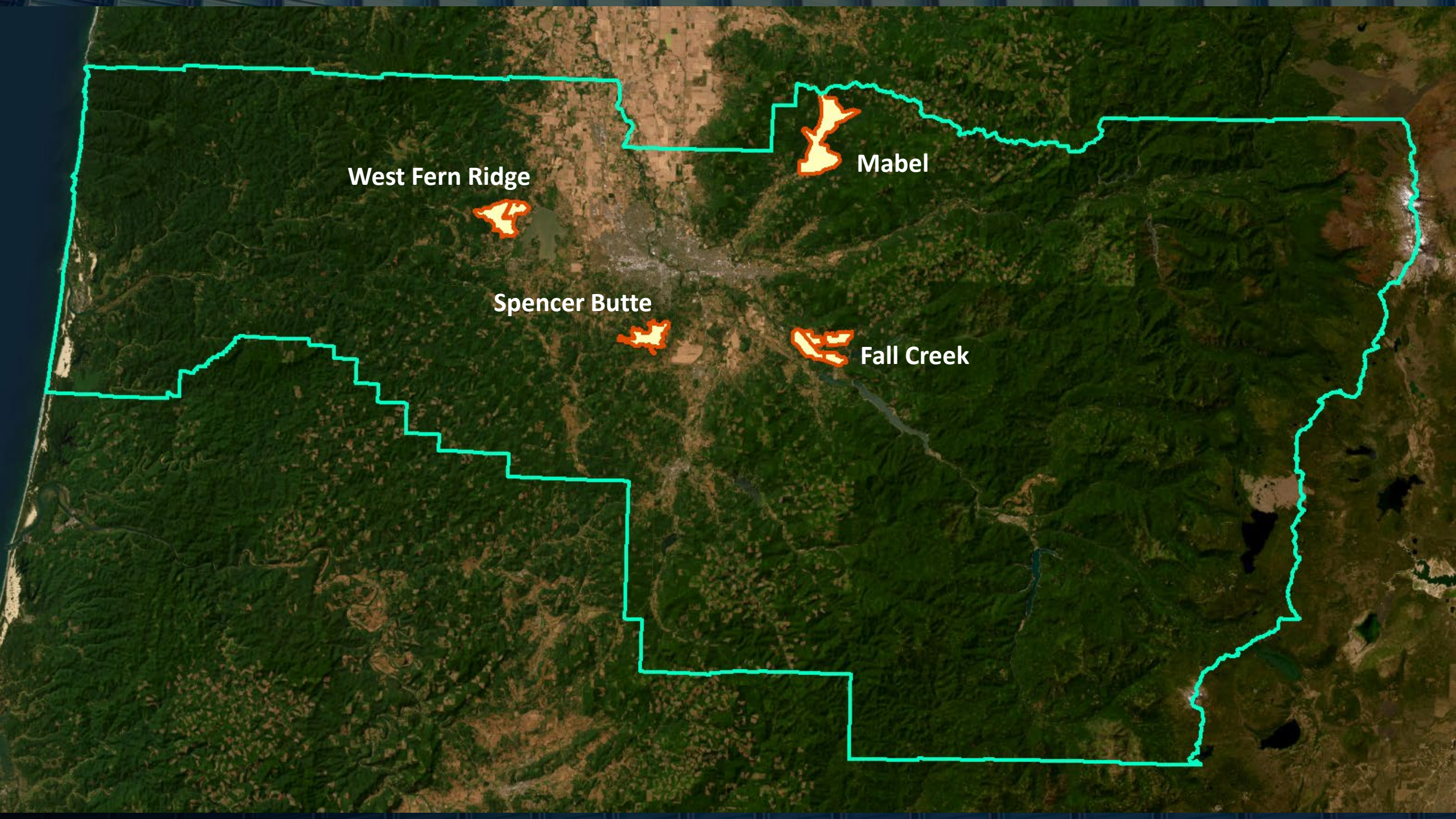
Broadband competition - Incentivize and attract a multitude of broadband providers

Data & analytics - Broadband maps, tools to capture state, etc.

Oregon Broadband Programs - Rollout

Underserved
Unserved




West Fern Ridge
Mabel
Spencer Butte
Fall Creek

PUBLIC - PUBLIC PARTNERSHIP

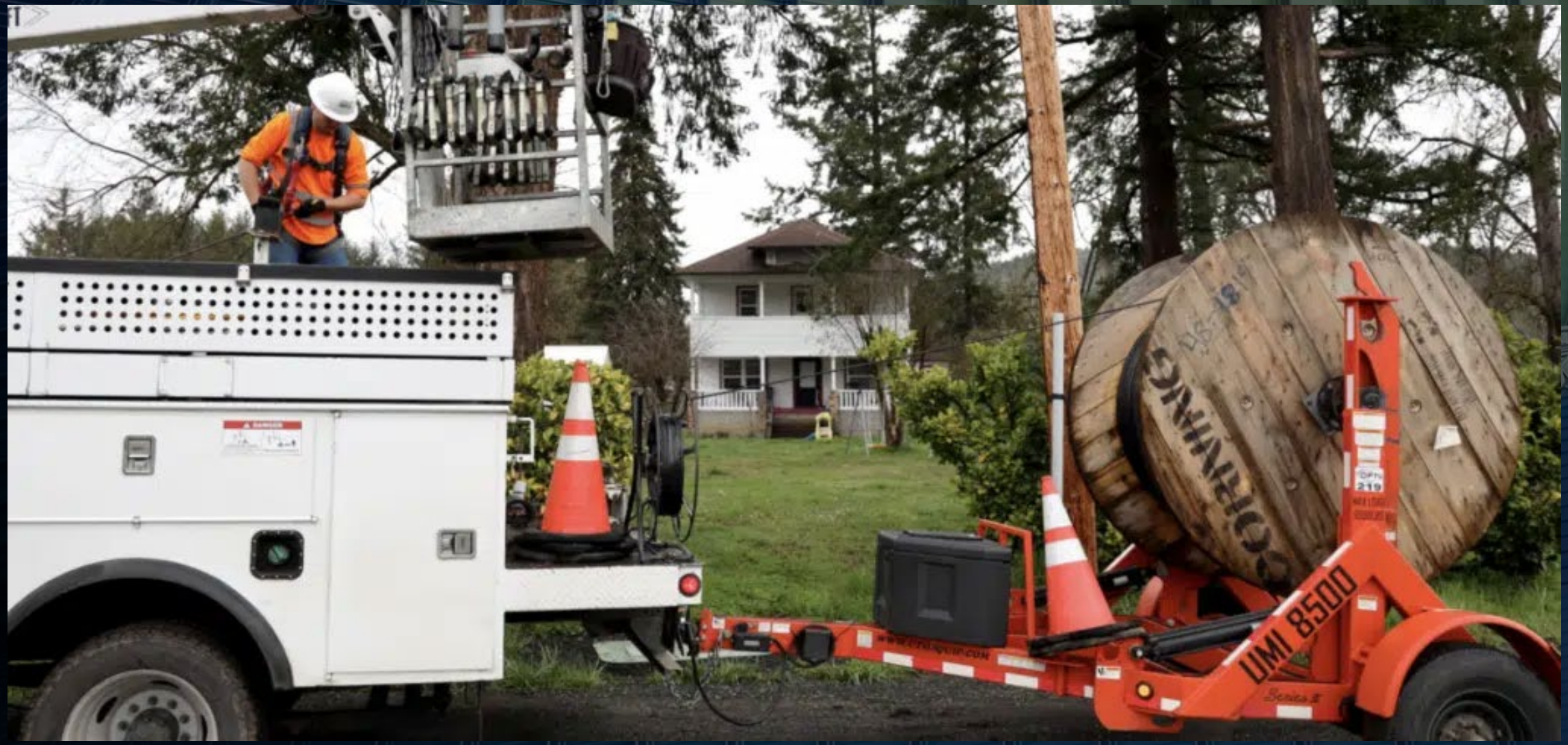
+

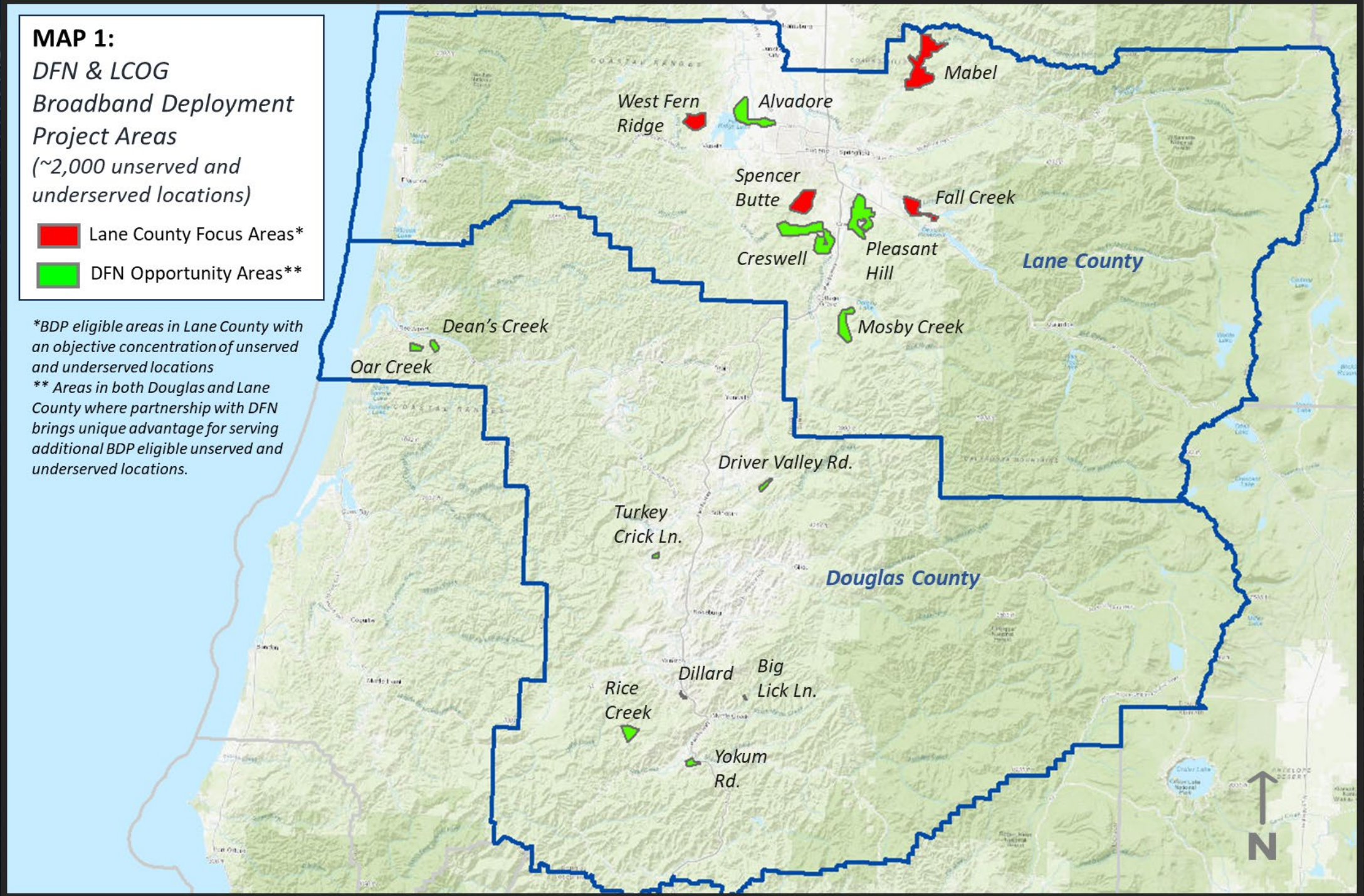
PUBLIC-PRIVATE PARTNERSHIP

Partnership Recruitment:

- Worked directly with Lane County to put out an RFP for ISP partnership
- SEVEN local ISPs responded to RFP for partnership
- Multi-agency committee recommended one ISP for partnership
- Douglas Fast Net is our ISP partner

DFN




MAP 1:
DFN & LCOG Broadband Deployment Project Areas
(~2,000 unserved and underserved locations)
Lane County Focus Areas*
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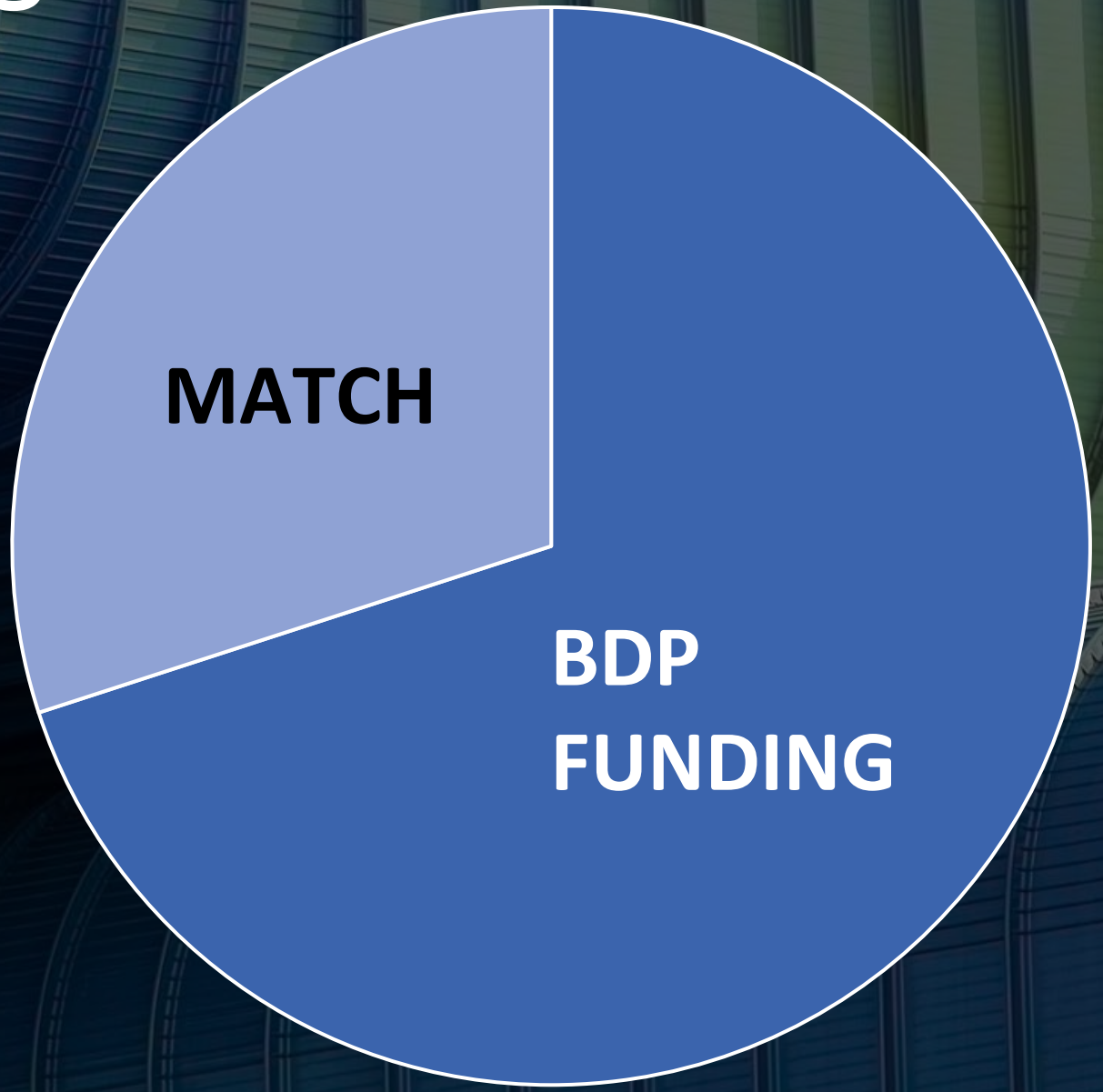
West Fern Ridge
Alvadore
Spencer Butte
Fall Creek
Creswell
Pleasant Hill
Lane County
Mosby Creek
Dean's Creek
Oar Creek
Driver Valley Rd.
Turkey Crick Ln.
Douglas County
Dillard
Big Lick Ln.
Rice Creek
Yokum Rd.
N

Cooperative Agreement

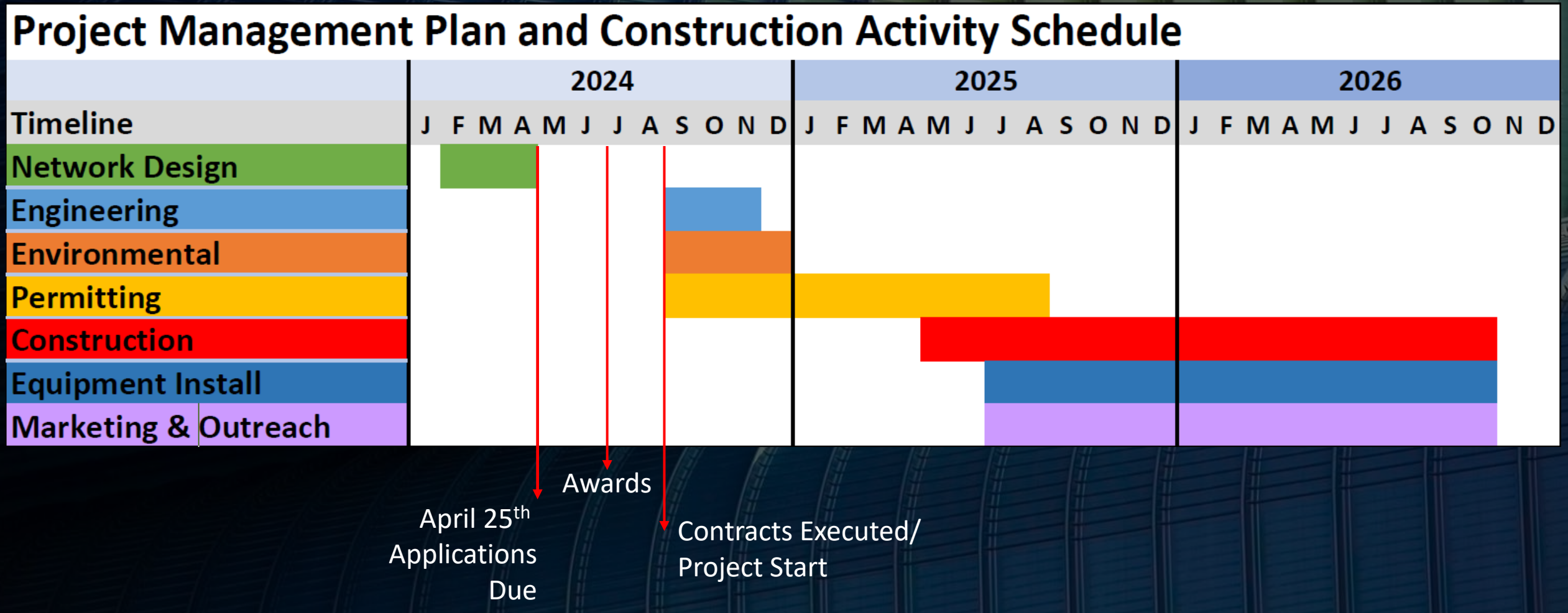
IGA

DFN	LCOG	Lane County
• Lead applicant and fiscal sponsor (most match) • Engineering and Construction • Budget • Standard promotion/marketing • Operator expertise in project viability, including challenge vulnerability. • Provide compelling customer service • Market rate (open access) strands to support broader/ interregional connectivity • Application submission	• Map and diagram constructed assets • Added promotion and adoption in project areas • Administrative support to DFN • Ensure as transparent a public-private partnership as possible • Foster and support local, regional, and state broadband relationships • Regularly inform Lane County of project progress, successes and needs • Leverage matching funds where possible and practical	• ROW expertise and leverage • Assistance in relations with local, regional and state partners, including utility partners • Assistance with promotion and adoption • Policy and legislative expertise and leverage, where meaningful • Additional match funds where possible and practical

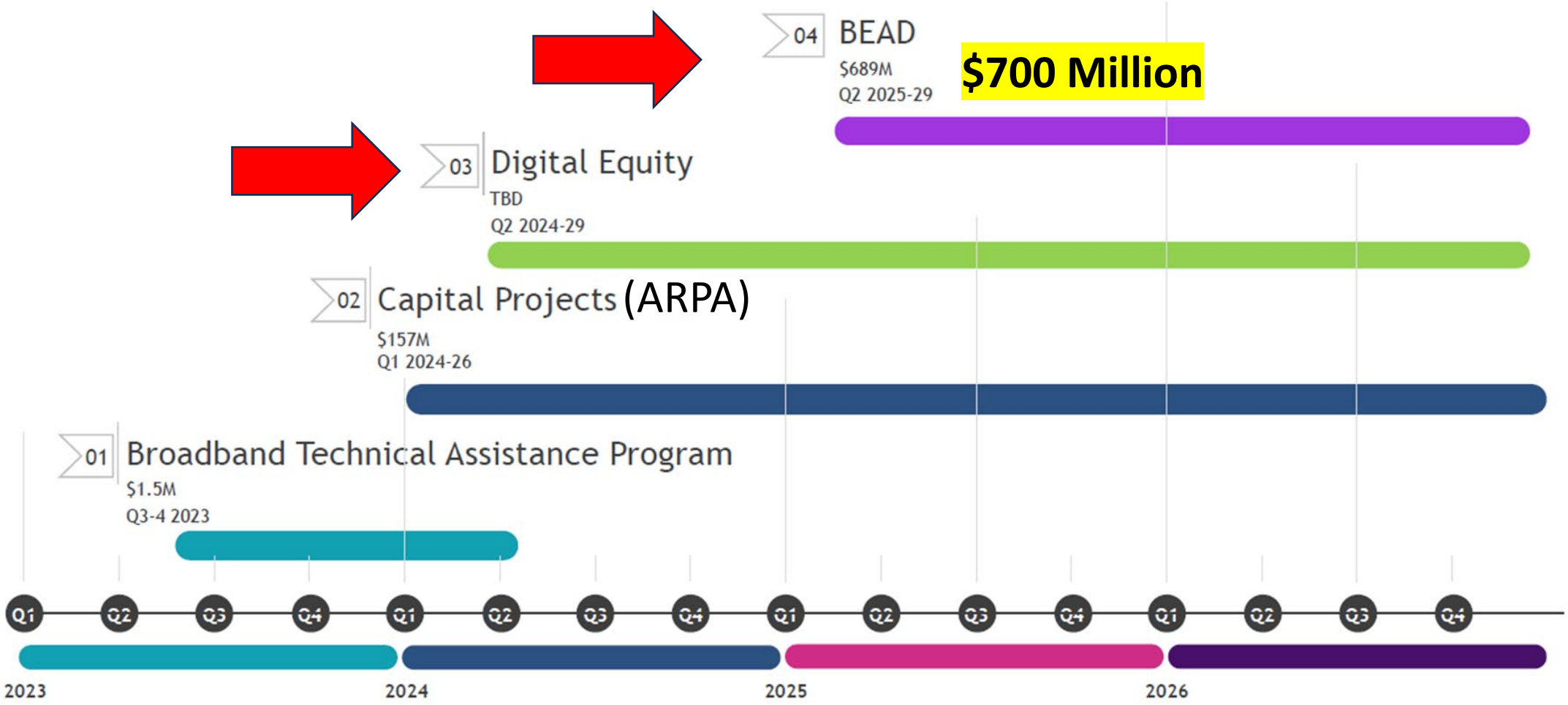
Project Budget:



Project Schedule



Oregon Broadband Programs - Rollout



To reiterate our ask …

- Approval of an Intergovernmental Agreement with LCOG ; and
- Approval of an associated Board Letter

…to commit County support for LCOG's joint application (with Douglas Fast Net) to the Oregon Broadband Office for a funding award under the Broadband Deployment Program (BDP).

QUESTIONS?