

AGENDA ITEM 20

Discuss and take appropriate action on TaylorCNET Participation Agreement.

Moved: **Commissioner Limmer**

Seconded: **Commissioner Hays**

Motion: To approve the TaylorCNET Participation Agreement which will cost the county \$3,500.00.

Vote: **4 - 0**

< Attachment >

AGREEMENT OF PARTICIPATION

This Agreement of Participation is by and between the **Taylor Independent School District**, a political subdivision of the State of Texas ("TISD"), the **City of Taylor**, Texas, a political subdivision of the State of Texas ("City"), the **Taylor Economic Development Corporation**, a quasi governmental non-profit corporation established under the Development Corporation Act of 1979, ("TEDC"), **Williamson County**, Texas, a political subdivision of the State of Texas ("County"), **Johns Community Hospital**, a Texas Non-profit Corporation ("Hospital"), the **Taylor Housing Authority**, a quasi governmental non-profit corporation formed under the Housing Authorities Law of the State of Texas, ("Housing Authority"), **Temple College at Taylor**, a Texas Non-profit Corporation ("TCAT"), the **Taylor Chamber of Commerce**, a Texas Non-profit Corporation ("Chamber"), and each enters into this Participation Agreement to administer a Telecommunications Infrastructure Fund (TIF) grant ("Grant") received by them and to operate, sustain, and administer equipment and services obtained using Grant funds establishing a wireless broadband network and its infrastructure to serve Taylor, Texas, and its surrounding area and the surrounding communities ("Network"). The parties to this Participation Agreement shall be collectively referred to as TaylorCNET or Participants and individually referred to as Participant or the abbreviated designation given to each Participant.

W I T N E S S E T H:

WHEREAS, the Texas Telecommunications Infrastructure Fund Grant to TaylorCNET has been or shall be used to establish the Network; and

WHEREAS, each Participant made a cash contribution to obtain the Grant; and

WHEREAS, TaylorCNET executed contracts and incurred obligations necessary to establish the Network, and the contracts and obligations are ratified and confirmed by each Participant to this Agreement; and

WHEREAS, TaylorCNET desires to establish the rights, privileges, and benefits, as well as the liabilities among

each Participant pertaining to TaylorCNET and the Network, and each Participant desires to maintain, sustain and operate TaylorCNET and the Network, and this Agreement is given to establish such rights, privileges, benefits and liabilities and to establish the association and the organization of Participants as TaylorCNET.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, and the above stated recitals that are incorporated into this Participation Agreement, the Participants hereby mutually covenant and agree as follows:

1) Each Participant made the following contribution to TaylorCNET that was necessary to obtain the Grant, to purchase equipment and services for the Network and to operate TaylorCNET from May 1, 2002 to April 30, 2003:

- a) Taylor Independent School District - \$17,000.00 of which \$5,000.00 was a cash contribution and donation of the TaylorCNET office, workrooms and utilities in the old TISD Middle School building, valued at \$12,000.00 per year.
- b) City of Taylor, Texas - \$21,000.00 of which \$15,000.00 was a cash contribution and donation of the Taylor water towers valued at \$6,000.00;
- c) Taylor Economic Development Corporation - 15,000.00 cash contribution;
- d) Williamson County - \$3,500.00 cash contribution;
- e) Taylor Housing Authority - \$1,500.00 cash contribution;
- f) Johns Community Hospital - \$1,000.00 cash contribution;
- g) Temple College at Taylor - \$1,000.00 cash contribution;
- h) Taylor Chamber of Commerce - \$1,000.00 cash contribution;

2) The TaylorCNET Grant was in the amount of \$500,000.00 and paid to TISD as fiscal agent for TaylorCNET. The Grant and other funds received by TaylorCNET and the expenditures and costs paid from the Grant and other funds by TISD as fiscal agent for TaylorCNET, are attached hereto as Exhibit "A" and incorporated by reference herein, and are ratified, approved and confirmed by each Participant. The TISD, as fiscal agent for TaylorCNET, shall receive all money,

funds, income, cash, and all other payments due TaylorCNET, shall be authorized to pay all expenditures, fees, and costs incurred by TaylorCNET, shall account for the Grant and funds received and paid by TaylorCNET, and shall be the authorized signatory for TaylorCNET on any contracts or other instruments required by TaylorCNET. The TISD as fiscal shall have such further authority allowed by the Board, hereinafter described and established by TaylorCNET.

3) TaylorCNET operates as an unincorporated association and each Participant appointed the TISD, City, TEDC, County and Hospital as their designated representatives and agents, hereafter be referred to as the "Board", and each Participant ratifies, approves and confirms all actions taken by the Board. The Board shall hereafter be composed of five Participants, of which three shall be permanent Board Participants and two shall be elected Board Participants. The three permanent Board Participants shall be the TISD, City, and TEDC and the elected Board Participants shall be the two Participants elected by and from the elected Board Participants, the County, TCAT, Hospital, Housing Authority, and Chamber, on an annual basis, starting one year from the date of this Participation Agreement. The Board shall be authorized to act for and on behalf of each Participant as their agent and representative in all matters, including without limitation, management and operation of TaylorCNET and the Network. The Board shall have the same powers granted to directors under the Texas Business Corporation Act, except when modified or amended by this Participation Agreement, in which event this Participation Agreement shall control.

4) The Participants acknowledge the Grant was and will be used to establish the Network. The Participants further acknowledge TaylorCNET and the Network must be sustained to continue operation, and future cash contributions from each Participant may be necessary to do so. Future cash and in kind contributions required from each Participant to sustain TaylorCNET and the Network shall be paid to TaylorCNET according to Paragraph One of this Agreement

5) TaylorCNET, through its Board, executed contracts deemed necessary for TaylorCNET and the Network ("Contract"). Each Participant acknowledges, approves, ratifies, and confirms the Contracts on behalf of TaylorCNET and each Participant.

6) The Contracts include a Master Communications Equipment and Water Tower Lease Agreement by and between City, TaylorCNET and SkyVue Wireless Broadband Network, Inc., ("SkyVue Agreement") wherein SkyVue agrees to operate the Network for TaylorCNET in the manner set out in the SkyVue Agreement.

7) The SkyVue Agreement provides the City, as a political subdivision and not as a Participant, and TaylorCNET revenue sharing from Network operations ("Revenue Sharing") and shall be paid to them jointly. Payment to the City is consideration for lease of City water towers required in the SkyVue Agreement and for the Network. All payments to the City, as a political subdivision and not as a Participant, and TaylorCNET shall be allocated between them as provided in this Participation Agreement and the SkyVue Agreement.

8) Participants acknowledge and agree the Revenue Share may not be sufficient to operate, maintain and sustain the Network and TaylorCNET ("Sustainability"). Sustainability costs shall be determined by the Board no less often than annually, and shall consider, without limitation, the following factors and considerations:

- a. Equipment requirements;
- b. Employment and salary requirements;
- c. Service requirements;
- d. Maintenance and expansion of the Network;
- e. Consulting service;
- f. Travel requirements;
- g. Advertisement expenses;

9) In the event a deficiency for Sustainability occurs, the Board shall send written notice to each Participant allocating the percentage ratio deficiency required as an additional cash and/or in-kind contribution from each Participant. In the event any Participant fails, refuses or determines it shall not make its required additional contributions for Sustainability, the Board shall furnish written notice to the Participant demanding payment or receipt from the Participant of the additional share percentage required from the Participant, which shall be paid by the Participant on or before thirty (30) days from the date of the Board demand to the defaulting Participant. In the event the Participant fails to make

the future contribution required for Sustainability after the thirty (30) day notice, the Participant shall be deemed to have voluntarily terminated its participation in TaylorCNET and shall be a "Terminated Participant". A Terminated Participant shall forfeit all rights, privileges and benefits previously derived by the Terminated Participant from TaylorCNET and the Network. The Terminated Participant shall also (i) waive, relinquish, discharge, and forfeit all claims against TaylorCNET and the other Participants arising under this Participation Agreement, and operation of TaylorCNET and the Network and (ii) the Terminating Participant shall forfeit its position on the Board, if the Terminating Participant is a Board representative, and (iii) shall waive, relinquish, discharge, and forfeit all claims for reimbursement of contributions and all other costs paid to or on behalf of TaylorCNET in consideration for allowing voluntary termination of participation in TaylorCNET. There shall not, however, be any further liability by and between TaylorCNET, the remaining Participants and the defaulting Participant.

10) In the event the Revenue Share paid jointly to TaylorCNET and the City, as a Political Subdivision and not as a Participant, exceeds the Boards determination of Sustainability for the period of time for which Sustainability was calculated, the amount of Revenue Share received by TaylorCNET in excess of the Board Sustainability projection shall be paid, distributed, or retained by the Board as hereinafter provided. First, the City, as political subdivision and not as a Participant shall be entitled to receive payment for its lease of the City water towers in consideration for use by TaylorCNET and SkyVue. The lease payment shall be calculated on the basis of \$1,000.00 per month for each antenna located on any City water tower used by TaylorCNET or SkyVue and reimbursement to TISD, as a political subdivision and not as a Participant, in the amount of \$12,000.00 per year or actual cost as approved by Board representing reimbursement of its in kind donation for the TaylorCNET office, workrooms and utilities. Next, the remainder of the Revenue Share exceeding the Sustainability, reimbursement of the City water tower lease and TISD in kind donation for the TaylorCNET office, workrooms and utilities, shall be retained or paid by the Board, in its sole discretion, to reserve and allocate the excess Revenue Share for future growth and expansion of TaylorCNET or the Network or use

the excess Revenue Share to refund all or a portion of the past contributions (both cash and non-cash/in kind) made by the Participants to TaylorCNET, not otherwise previously reimbursed.

11) TaylorCNET expenditures included purchase of equipment described in the SkyVue Agreement under the Communications Equipment Lease Section. The equipment is subject to the SkyVue Agreement for use and other disposition and replacement by SkyVue under the SkyVue Agreement, all of which is ratified, approved and confirmed by the Participants.

12) The SkyVue Agreement requires an agent to act on behalf of TaylorCNET. The Board and each Participant to this Agreement, ratifies, approves and confirms TISD as its fiscal agent to act for and on behalf of TaylorCNET and the Board with regard to the SkyVue Agreement.

13) In the event the Participants no longer make future contributions required by this Agreement to Sustain TaylorCNET and the Network, then in that event, all equipment purchased by TaylorCNET, shall be retained and owned by TISD, except for the equipment installed on a Participants premises, which shall become property of the Participant.

14) The SkyVue Agreement provides all Revenue Share shall be paid to the City, as a political subdivision and not as a Participant of TaylorCNET, in the event TaylorCNET and the Participants do not sustain the Network and TaylorCNET no longer has Participants. In that event, each Participant waives, relinquishes, and discharges all claims against the City for Revenue Share paid to the City, as a political subdivision and not as a Participant, under the SkyVue Agreement in consideration for use of the City water towers.

15) The SkyVue Agreement provides a term for lease of the City water towers necessary for the SkyVue Agreement. The City represents, covenants and agrees that it shall extend the SkyVue Agreement pertaining to the City water towers, as provided in the SkyVue Agreement, as long as there are Participants in TaylorCNET.

16) The SkyVue Agreement allows Participants Network services more fully described in the SkyVue Agreement,

provided TaylorCNET is Sustainable and Participants remain in TaylorCNET. In the event TaylorCNET no longer remains Sustainable and TaylorCNET no longer has Participants, then in that event, the Network services provided Participants under the SkyVue Agreement shall cease and shall no longer be provided. The Participants hereby waive, relinquish, and discharge all claims against the remaining Participants for termination of the services to the Participant under the SkyVue Agreement in the event TaylorCNET is no longer Sustainable or the Participant no longer participates in TaylorCNET.

17) This Participation Agreement cannot be modified except by a written instrument executed by the Board.

18) The headings, captions and numbers in this Participation Agreement are solely for convenience and shall not be considered in construing or interpreting any provision in this Participation Agreement.

19) Wherever appropriate in this Participation Agreement, personal pronouns shall be deemed to include other genders and the singular to include the plural, if applicable.

20) This Agreement contains all agreements, promises and understandings by and between This Agreement shall be governed and interpreted by, and construed in accordance with, the laws of the State of Texas, and shall be performable in Williamson County, Texas.

21) This Agreement shall extend to and bind the representatives, successors, and permitted assigns of the Participants.

22) In case any one or more of the provisions contained in this Participation Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof and this Participation Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been included herein.

23) The individual executing this Participation Agreement on behalf of each party represents and warrants to the other parties that such party has full right and

authority to enter into this Participation Agreement and perform its obligations hereunder.

24) This Participation Agreement may be executed in several counterparts, each of which shall constitute an original and all of which shall constitute the same Participation Agreement.

25) Time is of the essence in this Participation Agreement.

Taylor Independent
School District

James D. Stiles
By:
Its:

City of Taylor, Texas

Jeff M. [Signature]
By:
Its: Mayor

Taylor Economic Development
Corporation

Cam [Signature]
By:
Its:

Williamson County, Texas

John A. Daehler 2-18-03
By:
Its: County Judge

Johns Community Hospital

By:
Its:

Taylor Housing Authority

By:
Its:

Temple College at Taylor

By:
Its:

Taylor Chamber of Commerce

By:
Its:

Chance Perry

	TIF Funds	Local Funds	Total	Adjusted	Spent	Encumbered	Remaining
B1							
Contractual Services/ Telecommunications							
Monthly ISP Fees	\$17,352.00	\$0.00	\$17,352.00	-\$17,352.00	\$0.00	\$0.00	\$0.00
Monthly Line Charges	\$14,400.00	\$0.00	\$14,400.00	-\$14,400.00	\$0.00	\$0.00	\$0.00
ATM Transport Installation	\$900.00	\$0.00	\$900.00	-\$900.00	\$0.00	\$0.00	\$0.00
Total	\$32,652.00	\$0.00	\$32,652.00	-\$32,652.00	\$0.00	\$0.00	\$0.00
B2							
Contractual Services/Project Management							
Project Management	*\$60,000.00	\$2,500.00	\$62,500.00	\$25,000.00	\$70,000.00	\$45,000.00	\$17,500.00
Network Technical Support/Install	\$85,000.00	\$0.00	\$85,000.00	\$47,504.00	\$69,169.12	\$0.00	\$63,334.88
Web Portal Design/Maint	\$45,000.00	\$0.00	\$45,000.00	-\$3,000.00	\$10,779.20	\$42,000.00	\$31,220.80
Tech Center Build/Rent	\$0.00	\$12,000.00	\$12,000.00	\$0.00	\$10,000.00	\$12,000.00	\$2,000.00
Advertising	\$0.00	\$0.00	\$0.00	\$3,631.00	\$3,381.02	\$0.00	\$249.98
Outreach	\$0.00	\$0.00	\$0.00	\$5,000.00	\$896.51	\$0.00	\$4,103.49
Total	\$130,000.00	\$14,500.00	\$204,500.00	\$78,135.00	\$164,225.85	\$99,000.00	\$118,409.15
B3							
Contractual Services/Training							
TIF Tech Training	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Training	\$16,800.00	\$15,200.00	\$32,000.00	-\$8,300.00	\$3,640.00	\$0.00	\$20,060.00
Legal	\$0.00	\$0.00	\$0.00	\$0.00	\$1,586.67	\$0.00	-\$1,586.67
Total	\$16,800.00	\$15,200.00	\$32,000.00	-\$8,300.00	\$5,226.67	\$0.00	\$18,473.33
D1							
Supplies & Materials, Software							
Anti-Virus	\$1,278.00	\$0.00	\$1,278.00	\$0.00	\$0.00	\$0.00	\$1,278.00
Application Software	\$1,491.00	\$0.00	\$1,491.00	\$0.00	\$0.00	\$0.00	\$1,491.00
Training Software	\$800.00	\$0.00	\$800.00	-\$800.00	\$0.00	\$0.00	\$0.00
AIMS Videos	\$16,000.00	\$0.00	\$16,000.00	-\$16,000.00	\$0.00	\$0.00	\$0.00
Web Server	\$0.00	\$0.00	\$0.00	\$0.00	\$918.00	\$0.00	-\$918.00
Postage	\$0.00	\$0.00	\$0.00	\$0.00	\$12.15	\$0.00	-\$12.15
Total	\$19,569.00	\$0.00	\$19,569.00	-\$16,800.00	\$930.15	\$0.00	\$1,838.85

	TIF Funds	Local Funds	Total	Adjusted	Spent	Encumbered	Remaining
D2							
Other							
Equipment Rack	\$0.00	\$0.00	\$0.00	\$2,831.00	\$2,831.00	\$0.00	\$0.00
Surge Arrestors	\$0.00	\$0.00	\$0.00	\$1,350.00	\$1,350.00	\$0.00	\$0.00
Training Supplies and Materials	\$0.00	\$5,000.00	\$5,000.00	\$0.00	\$1,396.86	\$0.00	\$3,603.14
Back-up Tapes	\$0.00	\$0.00	\$0.00	\$0.00	\$738.00	\$0.00	-\$738.00
Phone	\$0.00	\$0.00	\$0.00	\$0.00	\$450.87	\$0.00	-\$450.87
Total	\$0.00	\$5,000.00	\$5,000.00	\$4,181.00	\$6,766.73	\$0.00	\$2,414.27
E1							
Network Hardware							
Router	\$4,263.00	\$0.00	\$4,263.00	-\$1,388.00	\$2,875.00	\$0.00	\$0.00
Ethernet Switch	\$14,924.00	\$0.00	\$14,924.00	-\$1,509.00	\$13,415.00	\$0.00	\$0.00
UPS	\$1,383.00	\$0.00	\$1,383.00	-\$382.00	\$1,001.00	\$0.00	\$0.00
Ext. Wireless Connect	\$20,323.00	\$0.00	\$20,323.00	\$15,386.00	\$25,165.00	\$0.00	\$10,544.00
Access Points	\$2,817.00	\$0.00	\$2,817.00	-\$2,817.00	\$0.00	\$0.00	\$0.00
PIX 506	\$4,054.00	\$0.00	\$4,054.00	-\$2,624.00	\$1,430.00	\$0.00	\$0.00
40' Antenna	\$14,000.00	\$0.00	\$14,000.00	-\$14,000.00	\$0.00	\$0.00	\$0.00
PIX 515	\$6,653.00	\$0.00	\$6,653.00	-\$3,040.00	\$3,613.00	\$0.00	\$0.00
100' Tower	\$7,500.00	\$0.00	\$7,500.00	-\$7,500.00	\$0.00	\$0.00	\$0.00
PIX 501	\$0.00	\$675.00	\$675.00	\$0.00	\$600.00	\$0.00	\$75.00
Tower Electrical Work	\$0.00	\$0.00	\$0.00	\$0.00	\$941.15	\$0.00	-\$941.15
Total	\$75,917.00	\$675.00	\$76,592.00	-\$17,874.00	\$49,040.15	\$0.00	\$9,677.85
E2							
Distance Learning Hardware							
Permanent Room Solution	\$40,828.00	\$0.00	\$40,828.00	\$0.00	\$0.00	\$0.00	\$40,828.00
Portable Room Solution	\$12,856.00	\$0.00	\$12,856.00	\$0.00	\$0.00	\$0.00	\$12,856.00
Document Camera	\$12,760.00	\$0.00	\$12,760.00	\$0.00	\$0.00	\$0.00	\$12,760.00
Smart Board	\$6,056.00	\$0.00	\$6,056.00	\$0.00	\$0.00	\$0.00	\$6,056.00
Video Cam Corder	\$1,000.00	\$0.00	\$1,000.00	\$0.00	\$0.00	\$0.00	\$1,000.00
Total	\$73,500.00	\$0.00	\$73,500.00	\$0.00	\$0.00	\$0.00	\$73,500.00
E3							
Computer Hardware							
Server	\$10,324.00	\$0.00	\$10,324.00	-\$2,376.00	\$7,948.00	\$0.00	\$0.00
Desktops	\$53,102.00	\$0.00	\$53,102.00	\$4,061.00	\$57,163.00	\$0.00	\$0.00

AGENDA ITEM 21

Consider amending 2003 Budget Order regarding several payroll section clarifications.

Julie Kiley from the Auditor's Office discussed the need for several payroll clarifications with the implementation of the Kronos system. Sheriff Maspero, Deborah Hunt, and John Sneed each spoke of issues and suggestions regarding the clarifications.

Judge Doerfler appointed a committee to come up with guidelines and suggestions for the Commissioner's Court regarding the clarification of the policy. The following persons were appointed to the committee.

Julie Kiley
John Maspero
John Sneed
Deborah Hunt
Dale Rye
Commissioner Boatright
Ashlie Koenig

AGENDA ITEM 22

Consider authorizing March 12, 2003 at 2 p.m. as date and time to receive bids for protective clothing and equipment for Williamson County EMS.

Moved: **Commissioner Boatright**

Seconded: **Commissioner Limmer**

Motion: To authorize March 12, 2003 at 2 p.m. as the date and time to receive bids for protective clothing and equipment for Williamson County EMS.

Vote: **4 - 0**

AGENDA ITEM 23

Consider approving amendment to Williamson County bid contract for the removal of damaged trees/limbs and standard pruning at Berry Springs Park and Preserve.

Moved: **Commissioner Boatright**

Seconded: **Commissioner Hays**

Motion: To approve amendment for additional time with penalty to the Williamson County bid contract for the removal of damaged trees/limbs and standard pruning at Berry Springs Park and Preserve.

Vote: **3 - 0. Commissioner Limmer** was absent from the dais.

<Attachment>