



To: Caren Skipworth

From: John B. Dahill

Date: November 24, 2014

Re: TechShare Master ILA Provisions Regarding Additional Participants Joining a Resource Mid-Budget

I had an opportunity to speak with Commissioner Webb regarding his concerns about obligations Collin County may have under the current TechShare/Juvenile/JCMS Resource Sharing Addendum ("RSA") given the effective date of the RSA. I explained that all Resource Sharing Addenda for TechShare resources are structured to permit new participants mid-term, with such new participants obligated only for compliance with the requirements found in the then-current annual budget for the resource. This structure is contemplated in the TechShare Master Interlocal Agreement.

Commissioner Webb indicated he may be comfortable with the documents if I could provide citations to the TechShare Master Interlocal Agreement regarding additional participants and their respective obligations. The provisions below address the subject, and I have added an explanation for most.

Please provide these to Commissioner Webb. Do not hesitate to contact me with any questions.

- 7.2. Resources: Each Resource will have a periodic budget, such as for each Fiscal Year. [JD: Resources thus far have had budgets tied to calendar years.]
  - 7.2.1. The Stakeholder Committee will formulate a proposed budget and submit it to the Oversight Committee for approval. The Oversight Committee may modify the proposed budget, but should endeavor to reach consensus with the Stakeholder Committee. The Oversight Committee will recommend the periodic budget to the Board of Directors for approval. The Board of Directors may modify the recommended budget as it deems appropriate.
  - 7.2.2. Each periodic budget will include amounts intended to meet the objective of continual technical and functional refreshing of the Resource.
  - 7.2.3. The Board of Directors shall set the costs or the method of determining the costs for Participants to share a Resource. The method of determining costs for Participants to share a Resource shall be set forth in the Resource Sharing Addendum.

7.2.3.1. Costs may vary by Participant.

7.2.3.2. Costs for a Participant may change as Participants change.

[JD: This reflects that costs for then-current participants in an RSA may decrease when additional participants join in sharing the resource.]

7.2.3.3. A change in a cost that does not require a Participant to pay more than the total dollar amount as previously approved by the Participant shall not require additional approval of the Participant. *In no event will a Participant be obligated to pay more than the amount previously approved by the Participant without formal approval of the governing body of the Participant.*

[JD: This section works to provide administrative ease in adding new participants by not requiring the approval of an amended budget by all then-current participants. It also protects then-current participants from any requirement to pay more than their respective commissioners courts approve for a periodic budget.]

7.3. The timing of each Participant's funding obligations shall be set forth in the applicable Project Addendum or Resource Sharing Addendum. [JD: A county does not owe amounts contained in a budget that is not approved by the county. In the case of Collin County's entry into TechShare.Juvenile, the 2013 budget contained in the original Attachment C to the RSA was replaced with the 2014 budget via Amendment No. 1. In other words, the 2013 budget no longer exists. Collin County is not being asked to approve Amendment No. 1 because Collin County will not share the resource in 2014. Collin County will approve the 2015 budget via Amendment No. 2, and that is the only budget under which Collin County will have payment obligations.]

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9.2.1. When paid, interest that accrues on unpaid Capital Costs will be distributed proportionality to those Participants who received a portion of the paying Participant's first payment of Capital Costs. The O&M Costs for each Participant shall be the Participant's proportionate share of the Total Annual Operations and Maintenance Cost of a Resource as determined using population, number of end users, or some other metric as established for the Resource by the Board of Directors and set forth in the applicable Resource Sharing Addendum.

9.2.3.1. If population is used to allocate costs, decennial census figures or annual census estimates as published by the Texas State Data Center, whichever is most recent, will be used.

9.2.3.2. Allocation of Total Annual Operations and Maintenance Costs will be done using the appropriate metric (e.g., population, number of users, etc.) as of the first day of the applicable term

of the Total Annual Operations and Maintenance Costs. Once established for a term, unless additional Participants join in sharing the Resource, the allocation of Total Annual Operations and Maintenance Costs will not change, but may change in subsequent terms if there are changes in the appropriate metric.

- 9.2.3.3. O&M Costs will be prorated for Participants joining mid-budget. [JD: This provision and the last sentence of the preceding subsection contemplate additional participants joining mid-budget.]

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- 11.11 As additional Participants join to share a Resource, a Participant then sharing the Resource is eligible to receive a partial refund of its Capital Costs and Operations and Maintenance Costs previously paid. The amount of any such refund shall be determined by calculating the effect of each additional Participant joining to share the Resource in accordance with the formulas for allocation of Capital Costs and Total Annual Operations and Maintenance Costs as set forth in the Resource Sharing Addendum.
- 11.12 Refunds resulting from additional Participants joining to share a Resource shall be calculated at the end of the annual period used to calculate the Total Annual Operations and Maintenance Costs.
- 11.13 At the direction of each Participant, its applicable refunds of either Capital Costs and Operations and Maintenance Costs may be made in the form of credits against future Operations and Maintenance Costs. [JD: These provisions contemplate refunds of annual O&M costs, which are set forth in periodic budgets. Refunds of O&M costs can only arise if new participants join mid-budget.]

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## 15. Participation by Other Entities

- 15.1. Additional Texas Local Governments and agencies of the State of Texas may participate in this Agreement with the approval of the Board of Directors.
- 15.2. Additional participants will be required to approve this Agreement and provide funds in accordance with Section 7 (Budget and Funding). The participation of additional Texas Local Governments or state agencies in a Project or Resource shall not require the approval of other Participants.