

**RESOLUTION NO. 2013-12-\_\_\_ (R)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT REGARDING A WIDE AREA FIBER OPTIC NETWORK IN THE CITY RIGHTS-OF-WAYS IN ACCORDANCE WITH THE PROVISION OF THE INTERLOCAL COOPERATION ACT, LOCATED IN TEXAS GOVERNMENT CODE, CHAPTER 791**

**WHEREAS**, the Interlocal Cooperation Act allows local governments to contract with one another; and

**WHEREAS**, FISD approached City regarding the installation of an underground Wide Area Fiber Optic Network (“WAN”) in City medians, parkways and rights-of-way for governmental use; and

**WHEREAS**, the Network shall consist of cable fiber to be used, operated and maintained by FISD (“FISD’S Network”) in accordance with this Agreement, referred to as the “WAN;” and

**WHEREAS**, all the various elements necessary to determine the feasibility of FISD’s Network have been determined by FISD, including the configuration of FISD’s Network, the desired route of installation (“Backbone”), and the allocation of costs and provisions for the administration and maintenance of FISD’s Network ; and

**WHEREAS**, FISD will contract with a Construction or Maintenance Contractor to install and maintain the WAN, with FISD assuming ownership of its strands of Network Fiber; and

**WHEREAS**, the Construction or Maintenance Contractor may seek to install its own fiber network in the City and function as a Certificated Telecommunications Provider under Public Utility Commission rules, Texas statutes and City ordinances; and

**WHEREAS**, in the alternative, such Construction or Maintenance Contractor must obtain a franchise from the City as a provider of cable television services; and

**WHEREAS**, such Construction or Maintenance Contractor shall, independently from this Agreement, procure permission from the City to pursue activities in the City rights-of-way, medians and parkways; and

**WHEREAS**, no provision of this Agreement shall operate to lessen the responsibility of any FISD Construction or Maintenance Contractor conducting activities in City streets, medians or parkways to adhere to City ordinances; and

**WHEREAS**, FISD needs or will need high quality telecommunications transmissions capability to interconnect their facilities in order to provide enhanced services to the district; and

**WHEREAS**, there is a valid governmental purpose served by constructing and operating a WAN to provide high technology communications capability for the Parties; and

**WHEREAS**, it is to the financial benefit of both the City and FISD to enter into an interlocal agreement under the terms and conditions further described herein;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

Section 1. The City Manager is hereby authorized to enter into an Interlocal Agreement with Frisco Independent School District (MISD) to install an underground Wide Area Fiber Optic Network (“WAN”) in City medians, parkways and right-of-way for governmental use.

Section 2. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 17<sup>th</sup> DAY OF DECEMBER, 2013.**

CITY OF MCKINNEY, TEXAS

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BRIAN LOUGHMILLER  
Mayor

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary  
BLANCA I. GARCIA, TRMC  
Assistant City Secretary

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney