

RESOLUTION # 188

AUTHORIZES THE CITY ADMINISTRATOR TO EXECUTE AN INTERGOVERNMENTAL COOPERATION AGREEMENT TO ALLOW THE PARKWAY SCHOOL DISTRICT TO INSTALL FIBER OPTIC CABLE WITHIN PUBLIC RIGHTS-OF-WAY.

WHEREAS, the City of Chesterfield and the Parkway School District are political subdivisions, as defined by Section 70.210 of the Missouri Revised Statutes; and,

WHEREAS, Parkway desires to construct, install and operate a fiber optics communications network, linking all of its facilities; and,

WHEREAS, the City of Chesterfield has determined that such communication network will benefit the public and the general welfare of the citizens of the City.

NOW, THEREAFTER, BE IT RESOLVED, that the City Administrator is hereby authorized to execute the attached "Intergovernmental Cooperation Agreement", between the City of Chesterfield and the Parkway School District, marked EXHIBIT A, attached to and part hereof.

ADOPTED THIS 19<sup>TH</sup> DAY OF JUNE, 1995

  
\_\_\_\_\_  
MAYOR JACK LEONARD

ATTEST:

  
\_\_\_\_\_  
CITY CLERK

- EXHIBIT A -

**INTERGOVERNMENTAL COOPERATION AGREEMENT**

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT (this "Agreement") is made this \_\_\_\_\_ day of JUNE, 1995 by and between the CITY OF CHESTERFIELD, (the "City") and the PARKWAY SCHOOL DISTRICT, a school district organized under the laws of the State of Missouri ("Parkway").

WHEREAS, Sections 70.210 through 70.325 of Missouri Revised Statutes authorize political subdivisions to contract and cooperate with one another for the planning, development, construction, acquisition, or operation of any public improvement or facility; and

WHEREAS, Parkway and the City are political subdivisions as defined by Section 70.210 of Missouri Revised Statutes; and

WHEREAS, Parkway desires to construct, install and operate a communications network, as described herein, and to locate same partially within the public rights-of-way, streets, roads, alleys, sidewalks, squares, bridges, easements and public places within the City as now fixed and as hereafter extended; and

WHEREAS, City has agreed to permit Parkway to locate such communication network in such areas; and

WHEREAS, the City finds that the installation of such communication network by Parkway will benefit the public and further the general welfare of the citizens of the City.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth below, the parties hereto agree as follows:

1. The City hereby grants and vests in Parkway the right, permission, and authority to construct, reconstruct, excavate for, place, maintain, operate and use all necessary or appropriate fibers, optics, wires, cables, conduits, connectors, boxes, poles, transmitters and other equipment, with all necessary or appropriate appurtenances and appliances in connection therewith, in, along, across, over and under the public rights-of-way, streets, roads, alleys, sidewalks, squares, bridges, easements and other public places within the corporate limits of the City, as now fixed and as hereafter extended, for the purpose of furnishing and operating a communication network (the "Network"), including, without limitation, telephone (voice and voice mail), electronic, analog or digital transmissions (including data and other computer applications), video transmissions, and any other transmission in any form of knowledge, intelligence or information of any kind or nature whatsoever.

2. Parkway shall not sell excess capacity to the Network to commercial entities for any uses separate from Parkway's operation of the Network.

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3. In light of Parkway's status as a tax supported political subdivision providing governmental services to the public, Parkway shall not be obliged to make any payment in the nature of rent or a franchise fee to the City.
4. The rights, privileges and authority hereby granted shall be binding upon and shall inure to the benefit of and be vested in the parties hereto and their respective successors and assigns.
5. The provisions of this Agreement shall not in any wise impair or affect, or constitute or be construed as a relinquishment or waiver of, any right, permission or authority which Parkway, its successors or assigns, may have independently of this Agreement; nor shall use by Parkway, its successors or assigns, of public property or places in the City, as authorized by this Agreement or service rendered by Parkway, its successors or assigns, in said City, be treated as use solely of the rights, permission and authority provided for by this Agreement or as service referable solely to this Agreement.
6. Parkway shall cause all work in the right-of-way pursuant to this Agreement to be performed with reasonable care, in a good and workmanlike manner, using licensed, bonded contractors carrying worker's compensation insurance with applicable statutory limits and shall return the right-of-way to its former condition upon completion of said work. Parkway shall install and maintain its pipes, fixtures, cables and other equipment in accordance with the requirements of the Department of Public Works and such other applicable ordinances and regulations of the City affecting such installations as may be presently in effect or changed by future ordinances, in such manner that they will not interfere with any installation of the City or of a public utility serving the City. Parkway understands and agrees that a specific requirement of the Department of Public Works of the City, is that any and all fiber optic cable installations performed by Parkway under this agreement shall be placed in accordance with applicable engineering and safety standards, including but not limited to the National Electrical Safety Code of the American National Standards Institute, the National Electrical Code of the National Fire Protection Association, and all other applicable ordinances, statutes, regulations and laws.
7. During the term of this Agreement, Parkway shall cause its contractors performing work in the right-of-way pursuant to this Agreement to maintain personal injury liability insurance in the amount of One Hundred Thousand Dollars (\$100,000.00) for the injury to or death of any one person, and One Million Dollars (\$1,000,000.00) for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of One Hundred Thousand Dollars (\$100,000.00), or such other limits as may be established by law, or, if there be no other established limits but the limits established above shall not be the maximums with regard to potential liability of the City, then Parkway shall cause its contractors performing work in the right-of-way pursuant to this Agreement to maintain personal injury liability insurance in the amount of One Million Dollars (\$1,000,000.00) for the injury to or death of any person, and Three Million Dollars

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that such indemnification shall not exceed Parkway's legal limit of liability and provided further Parkway shall have no duty to indemnify the City hereunder for any Claims resulting from or relating to either: (a) negligent or wrongful act(s) or omission(s) of the City, or (b) defects in property other than defects in property resulting from or relating to Parkway's negligent or wrongful act(s) or omission(s).

Executed as of the day and year first above written.

PARKWAY SCHOOL DISTRICT

CITY OF CHESTERFIELD

By: Richard B. Wells  
Name: Richard B. Wells  
Title: Pres., Parkway Board of Education

By: Michael E. Herring  
Name: MICHAEL E. HERRING  
Title: CITY ADMINISTRATOR

Attest: Martha R. de May  
CITY CLERK