

TAB 11



City of Palmetto Agenda Item

Meeting Date

6/21/10

Presenter: Allen R. Tusing, Director

Department: Public Works

Title:

**Fiber Optic Project
COP Job#04- 418**

FDOT Fiber Optic Agreement.

The Public Works staff has been coordinating with FDOT and Manatee County in the design and construction of the Advanced Traffic Management System, (ATMS) which consists of linking all of the traffic signals within Manatee County to one new system. One of the links within the ATMS includes the City's fiber optic ring for the traffic signals within the City of Palmetto.

FDOT will design and install the fiber optic at their cost and the City will be responsible for maintenance. It should be noted that the ATMS will be included in the annual Traffic Maintenance Agreement.

Budgeted Amount: \$0.00 **Budget Page No(s):** **Available Amount:** \$0.00 **Expenditure Amount:** \$0.00

Additional Budgetary Information:

Funding Source(s): **Sufficient Funds Available:** Yes No **Budget Amendment Required:** Yes No **Source:**

City Attorney Reviewed: Yes No N/A **Advisory Board Recommendation:** For Against N/A **Consistent With:** Yes No N/A

Potential Motion/ Direction Requested: Authorize the Mayor to execute the fiber optic maintenance agreement with the Florida Department of Transportation (FDOT).

Staff Contact: Allen R. Tusing, Director

Attachments: FIBER OPTIC INSTALLATION AND MAINTENANCE AGREEMENT

AGREEMENT BETWEEN
THE CITY OF PALMETTO
AND
FLORIDA DEPARTMENT OF TRANSPORTATION

This is an Agreement ("Agreement") between THE CITY OF PALMETTO ("CITY") and the Florida Department of Transportation ("FDOT"), for CITY to provide FDOT with a conduit system ("conduit system") for the installation and maintenance of fiber optics for an Advanced Traffic Management System (ATMS). The conduit system is defined as a single, empty, dedicated conduit and includes pull boxes, splice vaults, pull tape, tone wire, elbows, fittings, etc. associated with the conduit system.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

A. FACTUAL BASIS

1. WHEREAS, the CITY installed conduit within the City of Palmetto (see, Exhibit A, attached hereto), and
2. WHEREAS, FDOT is in the process of installing fiber optics for the ATMS, and
3. WHEREAS, To prevent disruption of traffic within the city, the CITY requested FDOT to use conduit already installed by the CITY instead of installing its conduit in another area, and
4. WHEREAS, FDOT agrees to install the fiber in the CITY's conduit for the ATMS, and
5. WHEREAS, the CITY's conduit is sufficient for FDOT's use.

B. THE CITY'S RESPONSIBILITIES

1. The CITY shall provide a dedicated conduit for the exclusive use of FDOT at no cost.
2. The CITY shall grant FDOT and/or its contractor access to the conduit and issue the necessary permits to enable it to install the fiber optics. This access shall include allowing the FDOT and/or its contractor to enter and possibly modify existing pull and splice boxes.

C. FDOT'S RESPONSIBILITIES

1. FDOT shall install the fiber optics at its cost.
2. FDOT shall install the fiber optics in accordance with the contract for FPID # 426635-1-52-01.
3. FDOT shall be responsible for damage incurred during installation of the fiber optics.
4. FDOT shall have the right to install additional fiber optics within the conduit only for use by the ATMS.

D. MAINTENANCE

1. After Final Acceptance of FPID # 426635-1-52-01, the CITY shall be responsible for all maintenance of the conduit and fiber optics. The CITY may contract with another government agency for its maintenance obligations under this Agreement.

2. The Traffic Signal Maintenance and Compensation Agreement (TSMC Agreement) (Contract # AM 979) dated August 23, 2002 between FDOT and the CITY, is hereby incorporated into this agreement, and shall govern the maintenance of the conduit containing FDOT's fiber optics and FDOT's fiber optics; FDOT and the CITY shall include the ATMS in the annual change or modification of the TSMC Agreement.

E. GENERAL PROVISIONS

1. This Agreement shall be construed under and in accordance with the laws of the State of Florida, and all actions brought hereunder, whether at law or in equity, shall be brought in a County or Circuit Court in and for Manatee County, Florida.
2. Both FDOT and the CITY shall be liable for its own negligence to the extent permitted by law.
3. The FDOT's fiber optics shall be used exclusively for ATMS.
4. The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.
5. This Agreement may not be assigned or transferred by either party without the written consent of the other.
6. The Agreement may not be modified without a writing signed by both parties.
7. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.
8. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
9. Any notices required by this Agreement shall be sent to:

If to FDOT
L.K. Nandam, P.E.
District Traffic Operations Engineer
801 North Broadway Avenue
Bartow, Florida 33831-1249

If to THE CITY OF PALMETTO
Allen R. Tusing, Director
Public Works Department
600 17th Street West
Palmetto, Florida 34221

IN WITNESS WHEREOF, THE CITY OF PALMETTO, FLORIDA, has caused this Agreement to be executed in its behalf by its Mayor, and the FLORIDA DEPARTMENT OF TRANSPORTATION has caused this Agreement to be executed in its behalf through its District Secretary or authorized designee. This Agreement shall become effective on:

Department to enter date.

CITY OF PALMETTO, FLORIDA

ATTEST

CLERK (SEAL)

DATE

SHIRLEY GROOVER BRYANT,
MAYOR, CITY OF PALMETTO

CITY OF PALMETTO: LEGAL REVIEW:

BY: _____
DATE

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST

EXECUTIVE SECRETARY (Seal)

PRINT NAME DATE

REVIEWED & APPROVED

BY: _____
PROJECT MANAGER DATE

BY: _____
DISTRICT SECRETARY OR DESIGNEE
DISTRICT ONE

PRINT NAME DATE

FLA. DEPT. OF TRANS. LEGAL REVIEW:

BY: _____
DATE