

**From:** [Mackesey, Brendan](#)  
**To:** [Fechter, David D](#)  
**Cc:** [Ferguson, Alexis](#); [Harvey, Gina A](#)  
**Subject:** FW: AN753 State Highway Lighting Agreement for FY 2021-2022  
**Date:** Friday, January 22, 2021 3:19:13 PM  
**Attachments:** [image001.wmz](#)  
[Agreement.pdf](#)  
FW ASJ68 - New State Highway Lighting Agreement to be Reviewed Signed.msq  
[image001.wmz](#)  
[image003.png](#)  
**Importance:** High

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Dave, I believe the evidence you are seeking of DOT rejecting my proposed changes to the Highway Lighting Agreement is below.

What's interesting is that these comments are from the summer. I provided similar comments around Christmas in the e-mail attached. Gina or Alexis (both cc'd) can better explain the time lapse. Interestingly, DOT did (partially) address my concern re sovereign immunity noted below (which is why you don't see a comment re sovereign immunity in my Legistar comments), but not the (lack of) non-appropriation language protecting the County, or the attorney's fees provision.

**Brendan Mackesey**  
Assistant County Attorney  
Board Certified in City, County, and Local Government Law  
Office: 727-464-3354  
Cell: 703-919-3770  
[bmackesey@pinellascounty.org](mailto:bmackesey@pinellascounty.org)

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**From:** Fechter, David D <[ddflechter@co.pinellas.fl.us](mailto:ddflechter@co.pinellas.fl.us)>  
**Sent:** Tuesday, January 12, 2021 11:46 AM  
**To:** Mackesey, Brendan <[bmackesey@co.pinellas.fl.us](mailto:bmackesey@co.pinellas.fl.us)>  
**Subject:** FW: AN753 State Highway Lighting Agreement for FY 2021-2022  
**Importance:** High

Brendan – See below and attached. I believe this item needs to go to BCC. Do you concur? Thanks.

David D. Fechter, AICP, CPPB  
Senior Department Administrative Manager  
Public Works Department  
14 S Fort Harrison Avenue, 4th Floor  
Clearwater, Florida 33756  
727-464-3019

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**From:** Ferguson, Alexis <[aferguson@co.pinellas.fl.us](mailto:aferguson@co.pinellas.fl.us)>  
**Sent:** Tuesday, January 12, 2021 11:09 AM  
**To:** Fechter, David D <[ddflechter@co.pinellas.fl.us](mailto:ddflechter@co.pinellas.fl.us)>; Tatro, Lisa M <[ltatro@co.pinellas.fl.us](mailto:ltatro@co.pinellas.fl.us)>  
**Cc:** Harvey, Gina A <[gharvey@co.pinellas.fl.us](mailto:gharvey@co.pinellas.fl.us)>  
**Subject:** FW: AN753 State Highway Lighting Agreement for FY 2021-2022  
**Importance:** High

Hi David and Lisa,

Please see email below from FDOT regarding requested changes from our County Attorney. FDOT is not allowing for/approving any requested changes to the agreement.

We can talk more at our 11:15 a.m. meeting.

Thank you both.

Alexis

**Alexis Ferguson**  
Transportation Systems Coordinator  
Pinellas County Public Works - Transportation  
22211 U.S. Highway 19 N. Bldg. 1  
Clearwater, FL 33765  
Direct: 727-464-8076  
Fax: 727-464-8908  
[aferguson@pinellascounty.org](mailto:aferguson@pinellascounty.org)

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**From:** Fisher, Ronni <[Ronni.Fisher@dot.state.fl.us](mailto:Ronni.Fisher@dot.state.fl.us)>  
**Sent:** Tuesday, September 1, 2020 9:20 AM  
**To:** Harvey, Gina A <[gharvey@co.pinellas.fl.us](mailto:gharvey@co.pinellas.fl.us)>  
**Cc:** Jacobs, Kenneth A <[kjacobs@co.pinellas.fl.us](mailto:kjacobs@co.pinellas.fl.us)>; Beebe, Jacqueline <[Jacqueline.Beebe@dot.state.fl.us](mailto:Jacqueline.Beebe@dot.state.fl.us)>; Giambra, Eugene <[Eugene.Giambra@dot.state.fl.us](mailto:Eugene.Giambra@dot.state.fl.us)>  
**Subject:** RE: AN753 State Highway Lighting Agreement for FY 2021-2022  
**Importance:** High

**CAUTION:** This message has originated from **Outside of the Organization**. Do Not Click on links or open attachments unless you are expecting the correspondence from the sender and know the content is safe. Our office has just received a response from Central Office to inform us that, **at this time, no revisions/changes are recommended to be made to the FDOT State Highway Lighting, Maintenance, and Compensation Agreement, Form 375-020-52.**

Please note that in your current agreement there is no provision for the Department to make any payment changes (90% of each light fixture). The new Agreement will be 95% for FY 2021-2022 and then it increases to 100% for FY 2022-2023.

Due to our Work Program cycle coming to end, it is greatly appreciated that we receive a response whether or not your agency will be participating in our Program for Fiscal Year 2021-2022.

In order to process the new Agreement timely, we will need to receive a response from your agency before **Tuesday, September 15<sup>th</sup>, 2020**. If the Department does **NOT** receive your response by this due date, we will assume your agency is not interested and the current Agreement will continue.

I want to thank you for your patience in this matter and look forward to working with Pinellas County on this Program.

Please feel free to contact me at if you have any questions.

**Ronni Fisher**

Senior District Contract Manager, C.S.M.  
Florida Department of Transportation  
D7 Maintenance  
(813)975-6232  
[Ronni.Fisher@dot.state.fl.us](mailto:Ronni.Fisher@dot.state.fl.us)

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**From:** Harvey, Gina A <[gharvey@co.pinellas.fl.us](mailto:gharvey@co.pinellas.fl.us)>  
**Sent:** Tuesday, June 23, 2020 2:57 PM  
**To:** Fisher, Ronni <[Ronni.Fisher@dot.state.fl.us](mailto:Ronni.Fisher@dot.state.fl.us)>  
**Cc:** Jacobs, Kenneth A <[kjacobs@co.pinellas.fl.us](mailto:kjacobs@co.pinellas.fl.us)>  
**Subject:** FW: AN753 State Highway Lighting Agreement for FY 21-22

Good morning Ronni,

I apologize for the delay in responding to your email and appreciate your patience. I did run the agreement through our attorney's office and Brendan did have some changes he would like you to consider. We are sympathetic to this being a boilerplate agreement but perhaps FDOT would entertain these revisions. Please review and let me know what I can do to help move this forward.

Please ask FDOT to insert the following language – or something substantially similar –in the agreement.

The Agreement is not a general obligation of the County. It is understood that neither this Agreement nor any representation by any County employee or officer creates any obligation to appropriate or make monies available for the purpose of the Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by the County, or any County department, beyond the monies budgeted and available for this purpose. If funds are not appropriated by the County for any or all of this Agreement, the County shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. In the event of such failure of appropriation, the County shall promptly notify the Department in writing; such notice may include a provision terminating the agreement on the last day (September 30) of the then current County fiscal period without penalty or expense to the County.


Please ask FDOT to insert the following language – or something substantially similar –in the agreement.

Nothing herein shall be construed as a waiver of sovereign immunity or the limits set forth in F.S. § 768.28 by either party. Further, nothing herein shall be construed as consent by either party to be sued by third parties for any matter arising from this Construction Agreement

Please ask FDOT to strike the last sentence at the bottom of page 2:

~~“The MAINTAINING AGENCY will be responsible all attorneys’ fees and litigation costs incurred in its recovery costs.”~~

**Gina Harvey, PTP, RSP**  
Transportation Planning Section Manager  
Pinellas County Public Works  
22211 U.S., Highway 19 North, Building 1, Clearwater, FL 33765  
Phone (727) 464-5651  
Fax (727) 464-8908  
[gharvey@pinellascounty.org](mailto:gharvey@pinellascounty.org)

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Thank you.

**Brendan Mackesey**  
Assistant County Attorney  
Board Certified in City, County, and Local Government Law  
Office: 727-464-3354  
Cell: 703-919-3770  
[bmackesey@pinellascounty.org](mailto:bmackesey@pinellascounty.org)

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**From:** Fisher, Ronni <[Ronni.Fisher@dot.state.fl.us](mailto:Ronni.Fisher@dot.state.fl.us)>  
**Sent:** Wednesday, June 10, 2020 11:02 AM  
**To:** Jacobs, Kenneth A <[kjacobs@co.pinellas.fl.us](mailto:kjacobs@co.pinellas.fl.us)>  
**Cc:** Dyar, Jeffrey R <[jdvar@co.pinellas.fl.us](mailto:jdvar@co.pinellas.fl.us)>; Welch, Kirsten M <[kmwelch@co.pinellas.fl.us](mailto:kmwelch@co.pinellas.fl.us)>; Evtatz, Tyson T <[tevatz@co.pinellas.fl.us](mailto:tevatz@co.pinellas.fl.us)>; Lemonias, John <[jLemonias@co.pinellas.fl.us](mailto:jLemonias@co.pinellas.fl.us)>  
**Subject:** AN753 State Highway Lighting Agreement for FY 21-22

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eement for FY

21-22 when it becomes available? We need to take necessary steps to provide you the Agreement.

Please send an email providing the answer prior to June 15<sup>th</sup>, 2020.

Thank you!

**Ronni Fisher**

Senior District Contract Manager, C.S.M.  
Florida Department of Transportation  
D7 Maintenance  
(813)975-6232  
[Ronni.Fisher@dot.state.fl.us](mailto:Ronni.Fisher@dot.state.fl.us)

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**From:** Fisher, Ronni  
**Sent:** Tuesday, May 5, 2020 2:35 PM  
**To:** Jacobs, Kenneth A <[kjacob@co.pinellas.fl.us](mailto:kjacobs@co.pinellas.fl.us)>  
**Cc:** Dyar, Jeffrey R <[jdvar@co.pinellas.fl.us](mailto:jdvar@co.pinellas.fl.us)>; Welch, Kirsten M <[kmwelch@co.pinellas.fl.us](mailto:kmwelch@co.pinellas.fl.us)>; Evatz, Tyson T <[tevatz@co.pinellas.fl.us](mailto:tevatz@co.pinellas.fl.us)>; Lemonias, John <[jlemonias@co.pinellas.fl.us](mailto:jlemonias@co.pinellas.fl.us)>  
**Subject:** RE: AN753 State Highway Lighting Work Order for FY 20-21

Thank you!

**Ronni Fisher**

Senior District Contract Manager, C.S.M.  
Florida Department of Transportation  
D7 Maintenance  
(813)975-6232  
[Ronni.Fisher@dot.state.fl.us](mailto:Ronni.Fisher@dot.state.fl.us)

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**From:** Jacobs, Kenneth A <[kjacob@co.pinellas.fl.us](mailto:kjacobs@co.pinellas.fl.us)>  
**Sent:** Tuesday, May 5, 2020 2:32 PM  
**To:** Fisher, Ronni <[Ronni.Fisher@dot.state.fl.us](mailto:Ronni.Fisher@dot.state.fl.us)>  
**Cc:** Dyar, Jeffrey R <[jdvar@co.pinellas.fl.us](mailto:jdvar@co.pinellas.fl.us)>; Welch, Kirsten M <[kmwelch@co.pinellas.fl.us](mailto:kmwelch@co.pinellas.fl.us)>; Evatz, Tyson T <[tevatz@co.pinellas.fl.us](mailto:tevatz@co.pinellas.fl.us)>; Lemonias, John <[jlemonias@co.pinellas.fl.us](mailto:jlemonias@co.pinellas.fl.us)>  
**Subject:** RE: AN753 State Highway Lighting Work Order for FY 20-21

**EXTERNAL SENDER: Use caution with links and attachments.**

Signed copy.

**Ken Jacobs, PWE, TSOS, RSP**  
Pinellas County Transportation Division  
(727) 464-8928  
[kjacob@pinellascounty.org](mailto:kjacobs@pinellascounty.org)  
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**From:** Fisher, Ronni <[Ronni.Fisher@dot.state.fl.us](mailto:Ronni.Fisher@dot.state.fl.us)>  
**Sent:** Tuesday, May 5, 2020 1:07 PM  
**To:** Jacobs, Kenneth A <[kjacob@co.pinellas.fl.us](mailto:kjacobs@co.pinellas.fl.us)>  
**Cc:** Dyar, Jeffrey R <[jdvar@co.pinellas.fl.us](mailto:jdvar@co.pinellas.fl.us)>  
**Subject:** RE: AN753 State Highway Lighting Work Order for FY 20-21  
**Importance:** High

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th reminder!!

Please sign and email the attached Work Order as soon as possible!

I so appreciate your partnership in this matter!

If you have any questions, please feel free to contact me.

Thank you!

**Ronni Fisher**

Senior District Contract Manager, C.S.M.  
Florida Department of Transportation  
D7 Maintenance  
(813)975-6232  
[Ronni.Fisher@dot.state.fl.us](mailto:Ronni.Fisher@dot.state.fl.us)

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**From:** Fisher, Ronni  
**Sent:** Monday, April 6, 2020 9:22 AM  
**To:** Jacobs, Kenneth A <[kjacob@co.pinellas.fl.us](mailto:kjacobs@co.pinellas.fl.us)>  
**Cc:** Dyar, Jeffrey R <[jdvar@co.pinellas.fl.us](mailto:jdvar@co.pinellas.fl.us)>  
**Subject:** AN753 State Highway Lighting Work Order for FY 20-21  
**Importance:** High

Please see attached State Highway Lighting, Maintenance, and Compensation Agreement Work Order for FY 20-21.  
As stated in the letter, please sign next to **"Accepted by:"** and return this document showing your approval **before May 1<sup>st</sup>, 2020**.

You may sign, scan and email back to me!

Please feel free to contact me at (813)975-6232 if you have any questions. The Florida Department of Transportation appreciates your support and partnership in such an important endeavor.

*Ronni Fisher*

Senior District Contract Manager, C.S.M.  
Florida Department of Transportation  
D7 Maintenance  
(813)975-6232  
[Ronni.Fisher@dot.state.fl.us](mailto:Ronni.Fisher@dot.state.fl.us)