

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Information Technology Services

**AGENDA DATE:** October 26, 2021

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON NAME  
AND PHONE NUMBER:** Araceli Guerra,  
Managing Director of Internal Services,  
(915) 212-1401

**DISTRICT(S) AFFECTED:** All Districts

**STRATEGIC GOAL:** Goal 5: Promote Transparent and Consistent Communication Amongst All Members of the Community

**SUBGOAL:** 5.2: Leverage and expand the use of current and new technology to reduce inefficiencies and improve communications

**SUBJECT:**

That the City Manager is authorized to sign the Agreement to Extend Amended Fiber Lease Agreement, reflecting the City's desire to exercise its option to extend the Amended Fiber Lease Agreement for a further term of 10 years at no additional cost to the City. That the City Manager is authorized to sign the First Amendment to the Amended Maintenance Agreement, extending the term of the Amended Maintenance Agreement for a period of ten (10) years. And that the City acknowledges receipt of Transtelco's notice to extend the Conduit Lease Agreement for an additional five (5) year term.

**BACKGROUND / DISCUSSION:**

- A. On December 20, 2011 City Council approved an amendment to the agreement for the City's Fiber Lease of 144 strands of fiber along 134,239 linear feet of conduit owned by Transtelco Inc., in downtown El Paso, Texas. The City wishes to exercise the first of two 10-year options available on this lease. The lease has been paid in full for the remainder of the initial period and the two optional 10-year extensions. No further payments to Transtelco Inc. will be made for the fiber lease.
- B. The Fiber Maintenance Agreement with Transtelco Inc., was also amended on December 20, 2021. The current amendment to the amended Fiber Maintenance Agreement extends the existing agreement for an additional 10 years, with one optional 10-year extension to match the remaining term of the Fiber Lease Agreement above. The City pays Transtelco Inc., \$64,434.72 per year for Scheduled Maintenance.
- C. Finally, Transtelco requested the City acknowledge the extension of their lease of 10,285 linear feet of City owned underground conduit in the downtown area for an additional five-year term. One five-year extension remains for this lease.

**PRIOR COUNCIL ACTION:**

December 20, 2011, Items 8A and 8C.

**AMOUNT AND SOURCE OF FUNDING:**

- A. Fiber Lease Agreement: N/A
- B. Fiber Maintenance Agreement: \$5,369.59 per month for Scheduled Maintenance.  
General Fund / Citywide Contracts - 239-1000-15240-P1506-522020.
- C. Lease of City Conduit: N/A, this is a revenue generating item.

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  X  YES \_\_\_ No

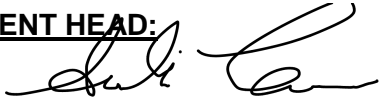
PRIMARY DEPARTMENT: Information Technology Services

SECONDARY DEPARTMENT: N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



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Araceli Guerra, Managing Director, Internal Services

## **RESOLUTION**

**WHEREAS**, the City of El Paso (City) entered into a Fiber Lease Agreement on December 18, 2007, (Fiber Lease) with Transtelco, Inc., a Texas corporation (Transtelco) to lease 144 fiber strands for high-speed connectivity (City Fiber) along 134,239 linear square feet of conduit owned by Transtelco.

**WHEREAS**, on December 22, 2011, the Fiber Lease was amended (Amended Fiber Lease Agreement) and its term began on the effective date of the Amended Fiber Lease Agreement for a period of ten (10) years, set to terminate on December 21, 2021. The Amended Fiber Lease Agreement included an option for the City to extend the term of the Amended Fiber Lease Agreement for two additional ten (10) year terms.

**WHEREAS**, the Amended Fiber Lease Agreement stipulated that the rental payable on the Fiber Lease had been paid in full and no further rental or other monetary payments were due by the City under the Amended Fiber Lease Agreement for its entire term, including the two ten (10) year option periods.

**WHEREAS**, the City wishes to exercise the option to extend the Amended Fiber Lease Agreement for a further term of 10 years at no additional cost to the City, as contained in Article III of the Amended Fiber Lease Agreement.

**WHEREAS**, the City and Transtelco entered into a Maintenance Agreement on December 18 2007, wherein Transtelco agreed to maintain the City Fiber.

**WHEREAS**, the Maintenance Agreement was amended on December 20, 2011 (Amended Maintenance Agreement) and its term began on the effective date of the Amended Maintenance Agreement for a period of ten (10) years, with no option to extend, at a monthly rate of FIVE THOUSAND THREE HUNDRED SIXTY NINE AND 56/100 DOLLARS (\$5369.56).

**WHEREAS**, the City wishes to enter into an agreement to amend the Amended Maintenance Agreement in order to extend the Amended Maintenance Agreement for an additional ten (10) years, under the same terms of the Amended Maintenance Agreement, with an option to extend for one additional ten (10) year period.

**WHEREAS**, on December 22, 2011, Transtelco entered into a Conduit Lease Agreement with the City to lease a conduit belonging to the City for a period of five (5) years, with three (3) additional five (5) year options to extend.

**WHEREAS**, on August 4, 2021, Transtelco notified the City in writing of its desire to exercise its second option to extend the Conduit Lease Agreement for an additional five (5) year term.

**WHEREAS**, Transtelco is not in default of any provision of this Lease and has represented that it is in good standing with the applicable regulatory authorities.

**WHEREAS**, the City wishes to acknowledge receipt of Transtelco's written exercise of its second option to extend the Conduit Lease Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager is authorized to sign the Agreement to Extend Amended Fiber Lease Agreement, reflecting the City's desire to exercise its option to extend the Amended Fiber Lease Agreement for a further term of 10 years at no additional cost to the City. That the City Manager is authorized to sign the First Amendment to the Amended Maintenance Agreement, extending the term of the Amended Maintenance Agreement for a period of ten (10) years. And that the City, via this resolution, acknowledges receipt of Transtelco's notice to extend the Conduit Lease Agreement for an additional five (5) year term.

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.


**THE CITY OF EL PASO**

\_\_\_\_\_  
Oscar Leeser,  
Mayor


**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Rebecca E. Quinn  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Araceli Guerra  
Managing Director  
Department of Information Technology Services

STATE OF TEXAS )  
 )  
 )  
COUNTY OF EL PASO )

**AGREEMENT TO EXTEND**  
**AMENDED FIBER LEASE AGREEMENT**

This Agreement to Extend Amended Fiber Lease Agreement is entered into and effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2021 by and between the City of El Paso (the “City”), a municipal corporation under the laws of the State of Texas and Transtelco, Inc., a Texas corporation (Transtelco), hereinafter collectively referred to as the “Parties.”

**WHEREAS**, on December 18, 2007, the Parties entered into a Fiber Lease Agreement, wherein the City agreed to lease 144 fiber strands for high-speed connectivity (City Fiber) along 134,239 linear square feet of conduit owned by Transtelco; and

**WHEREAS**, on December 22, 2011, the Fiber Lease Agreement was amended (Amended Fiber Lease Agreement) and its term was extended for ten (10) years, with two additional ten (10) year options to extend; and

**WHEREAS**, the Amended Fiber Lease Agreement stipulated that the rental payable on the Fiber Lease had been paid in full and no further rental or other monetary payments were due by the City under the Amended Fiber Lease Agreement for its entire term, including the two ten (10) year option periods.

**WHEREAS**, the City wishes to exercise its first ten (10) year option to extend the Amended Fiber Lease Agreement at no additional cost to the City; and

**WHEREAS**, it is to the mutual advantage of the City and Transtelco to extend this Agreement for ten (10) years; and

**NOW, THEREFORE**, it is mutually agreed by and between the City and Transtelco as follows:

1. That the Amended Fiber Lease Agreement entered into between the parties on December 22, 2011, and all of its terms are extended for ten (10) years effective December 22, 2021, at no additional cost to the City.
2. The individual signing this Agreement to Extend acknowledges that he or she is authorized to do so and said individual further warrants that he or she is authorized to commit and bind the party to the terms and conditions of this Agreement to Extend.
3. All other terms of the Amended Fiber Lease Agreement remain in full force and effect.

*(signatures follow on next page)*

Agreement to Extend Amended Fiber Lease Agreement

Signature Page

**IN WITNESS WHEREOF**, the parties have executed this Agreement at El Paso, Texas this

\_\_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF EL PASO, TEXAS:**

\_\_\_\_\_  
Tomás González  
City Manager


**TRANSTELCO, INC:**

\_\_\_\_\_  
Miguel Fernandez  
President

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Araceli Guerra, Managing Director  
Department of Information Technology Services

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Rebecca E. Quinn  
Assistant City Attorney

## FIRST AMENDMENT TO AMENDED MAINTENANCE AGREEMENT

**THIS FIRST AMENDMENT TO AMENDED MAINTENANCE AGREEMENT** (this “*First Amendment*”) is made and entered into as of the \_\_\_\_ of October, 2021, regardless of when actually signed (the “*Effective Date*”), by and between **THE CITY OF EL PASO**, a municipal corporation of the State of Texas (“*City*”), and **TRANSTELCO, INC**, a Texas corporation (“*Transtelco*”). Capitalized terms used in this First Amendment and not otherwise defined herein will have the meanings assigned to such terms in the Agreement.

### Recitals

**A.** City and Transtelco are parties to that certain Amended Maintenance Agreement dated December 20<sup>th</sup>, 2011 (the “*Agreement*”), regarding the maintenance by Transtelco of fiber optic strands being leased by the City.

**B.** The Agreement is set to terminate on December 20<sup>th</sup>, 2021, and the parties seek to extend the Agreement based upon the terms and conditions set forth in this First Amendment.

### Agreement

**NOW, THEREFORE**, in consideration of the mutual promises and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

**1. Extension.** The parties hereby agree to extend the term of the Agreement for an additional ten (10) years, with a new termination date of ***December 31, 2031***, unless terminated earlier by either party as provided in the Agreement. The City shall have the option to extend the term of this Agreement for an additional ten (10) year term.

**2. No Other Modifications; Conflict.** Except as amended by this First Amendment, the parties hereto represent and warrant that the Agreement is in all respects ratified and confirmed by the parties hereto, and remains in full force and effect in accordance with its terms, except to the extent that any such terms in the Agreement contradict the spirit and intent of this First Amendment. In the event of any conflict with the terms of the Agreement and this First Amendment, the terms of this First Amendment shall control.

**3. Miscellaneous.** This First Amendment will be binding upon and inure to the benefit of the parties and their respective successors and assigns, and may be further modified or amended only in writing signed by each party hereto. This First Amendment embodies the entire agreement and understanding between the parties with respect to the subject matter of this First Amendment and supersedes all prior agreements relating to such subject matter, if any.

**4. Counterparts.** This First Amendment may be executed by fax or e-mail signatures and in multiple counterparts, each of which will be deemed to be a duplicate original, and all of which shall constitute one First Amendment.

[SIGNATURE PAGE TO FOLLOW]

First Amendment to Maintenance Agreement

Signature Page

**CITY OF EL PASO, TEXAS:**

\_\_\_\_\_  
By: Tomás González  
Its: City Manager

**TRANSTELCO, INC:**

By: \_\_\_\_\_  
Name: Miguel Fernandez  
Its: President

APPROVED AS TO CONTENT:



Araceli Guerra, Managing Director  
Department of Information Technology Services

APPROVED AS TO FORM:



Rebecca E. Quinn  
Assistant City Attorney